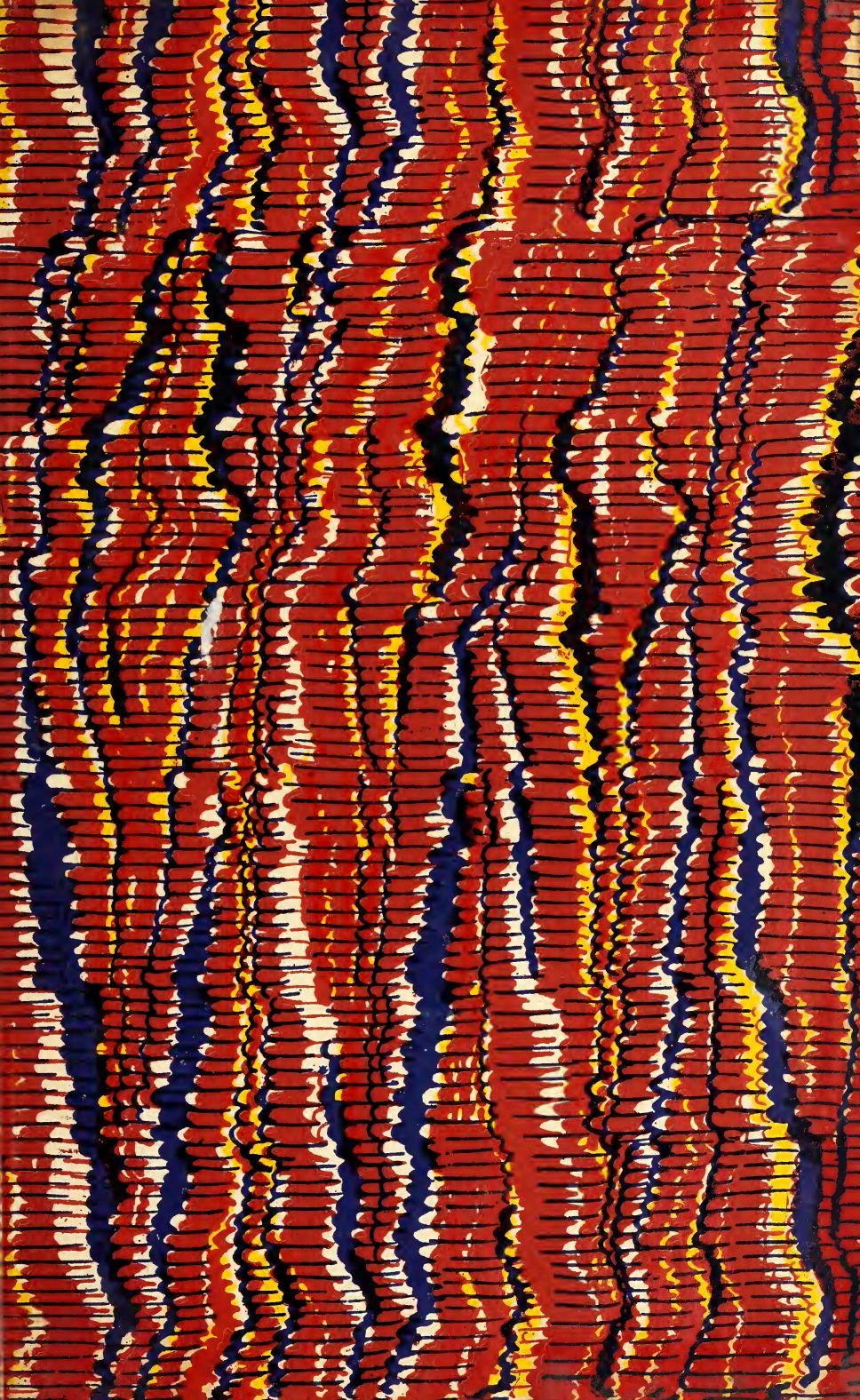

United States Department of Agriculture,

OFFICE OF THE SECRETARY,

BOARD OF FOOD AND DRUG INSPECTION.

NOTICE OF JUDGMENT NO. 1, FOOD AND DRUGS ACT.

MISBRANDING OF APPLE CIDER.

Section 4 of the Food and Drugs Act of June 30, 1906, in part provides:

After judgment of the court, notice shall be given by publication in such manner as may be prescribed by the rules and regulations aforesaid.

Regulation 6 of the Rules and Regulations for the Enforcement of the Food and Drugs Act, made and promulgated in conformity with section 3 of the Act, in part provides:

(*a*) When a judgment of the court shall have been rendered there may be a publication of the findings of the examiner or analyst, together with the findings of the court.

(*b*) This publication may be made in the form of circulars, notices, or bulletins, as the Secretary of Agriculture may direct, not less than thirty days after judgment.

In obedience to the foregoing law and regulation notice is hereby given that on the 10th day of February, 1908, in the Supreme Court of the District of Columbia, in a proceeding of libel for condemnation of one hundred and thirty-five barrels of cider, labeled and branded "Apple Cider," wherein the United States was libellant, and the Semmes-Kelly Company, a corporation, was respondent, the cause having come on for a hearing and claimants having made a default in answering, a decree for condemnation was rendered, in substance and in form as follows:

In the Supreme Court of the District of Columbia, holding a District Court.

UNITED STATES, *Libellant*,
vs.
THE SEMMES-KELLY COMPANY, *a corporation*. } No. 752, District Docket.

DECREE FOR CONDEMNATION.

On motion of Daniel W. Baker, Esquire, attorney for the libellant, and it appearing to the Court that upon the libel filed herein a warrant of arrest was duly issued and served on the 22nd day of November, 1907, and that by virtue of the said warrant the Marshal has seized one hundred and thirty-five barrels, containing six thousand three hundred and sixteen gallons, more or less, of liquid branded "apple cider" and inventoried as of the value $631.60 the said one hundred and thirty-five barrels, with contents having been in the possession of the Semmes-Kelly Company, a corporation, respondent, and now being stored

in the custody of the said Marshal, and it further appearing that the Semmes-Kelly Company was duly warned to appear herein on the sixteenth day of December, 1907, and that due and legal notice and proclamation were given to all other persons having any claim, right or interest herein to appear on the said date and answer the exigencies of the said libel, and the said Semmes-Kelly Company having defaulted in filing answer to the said libel, but appearing through its attorneys Messrs. Douglas and Douglas and consenting hereto, and no objection having been signified to the Court, it is this tenth day of February, 1908,

Ordered, adjudged and decreed that the said one hundred and thirty-five barrels with contents, as aforesaid, branded "apple cider" be and they hereby are declared to be misbranded in violation of the Act of June 30, 1906, as charged in the said libel, and it is further ordered that the said one hundred and thirty-five barrels, with contents as aforesaid, branded "apple cider" be, and they hereby are condemned and ordered to be disposed of by sale of the said contents thereof as prayed for in the said libel, and provided for in the said act of June 30, 1906. It is further ordered that the proceeds of said sale, less the legal costs and charges, shall be paid into the Treasury of the United States.

It is provided, however, that upon the payment of all the costs of the proceedings herein, including the costs of hauling, storage, watchman, and all costs incident to or contracted in these proceedings, and the execution and delivery by the said Semmes-Kelly Company, a corporation, to the libellant, of a good and sufficient bond in the penalty of $3,000.00, conditioned that the said one hundred and thirty-five barrels, with contents branded "apple cider" as aforesaid, shall not be sold or otherwise disposed of contrary to the provisions of the said act of June 30, 1906, the said Marshal shall re-deliver the said one hundred and thirty-five barrels to the said Semmes-Kelly Company, a corporation, in lieu of disposing of them by sale as aforesaid, the said bond to be filed herein if at all, on or before the 20th day of February, 1908.

(Signed) JOB BARNARD,
Justice.

The case grew out of the following state of facts: On November 15, 1907, an inspector of the Department of Agriculture purchased from the Semmes-Kelly Company, 621 Pennsylvania avenue, Washington, D. C., one barrel of cider labeled "apple cider." This barrel was one of a shipment of one hundred and thirty-five barrels, from the manufacturers, the American Fruit Product Company, Rochester, N. Y., shipped to the Semmes-Kelly Company on or about November 9, 1907.

The sample purchased by the inspector was duly analyzed in the Bureau of Chemistry, Department of Agriculture, and the following result obtained and stated:

Alcohol by volume (per cent)	11.93
Solids (per cent)	3.82
Polarization (degrees Ventzke)	4.0
Reducing sugar after inversion (per cent)	1.28
Sucrose	0.00
Ash (per cent)	0.277
Benzoic or salicylic acid	None
Alkalinity of ash	
30.9 cc N/10 NaOH for 100 cc of cider.	
Phosphoric acid, P_2O_5 (per cent)	0.019

The analysis unmistakably proved that this cider was not the pure expressed juice of apples. The quantity of alcohol determined was 11.93 per cent, an amount so great that it was apparent that some foreign sugar had been added. The cider was therefore misbranded within the terms of section 8 of the act, and on November 22, 1907, the Secretary of Agriculture reported the facts to the United States attorney for the District of Columbia.

Libel for seizure and condemnation of the one hundred and thirty-five barrels of cider was duly filed in the Supreme Court of the District of Columbia under section 10 of the act, upon which seizure was forthwith made and notice given to the Semmes-Kelly Company and all claimants to show cause why the cider should not be condemned.

Respondent having failed to answer or show any cause against condemnation, the cider was adjudged to be misbranded and ordered to be sold as set forth in the decree hereinbefore stated.

This is the first case determined under the Food and Drugs Act and the first to be thus reported. It is interesting as involving the practice of adding sugar to the natural juices of fruit for the purpose of increasing the alcoholic content.

H. W. Wiley,
F. L. Dunlap,
Geo. P. McCabe,
Board of Food and Drug Inspection.

Approved:
James Wilson,
Secretary.

Washington, D. C., *April 22, 1908.*

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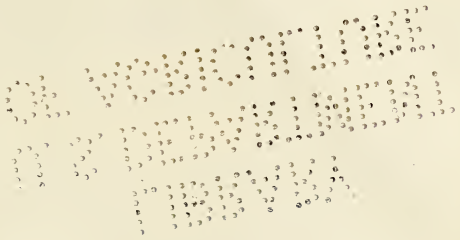

Notice of Judgment No. 2. Issued June 24, 1908.

United States Department of Agriculture,

OFFICE OF THE SECRETARY,

BOARD OF FOOD AND DRUG INSPECTION.

NOTICE OF JUDGMENT NO. 2, FOOD AND DRUGS ACT.

MISBRANDING OF MOLASSES.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of Regulation 6 of the Rules and Regulations for the Enforcement of the Act, notice is given that on the 23d day of April, 1908, in the District Court of the United States for the Western Division of the Western District of Tennessee, in a proceeding of libel for condemnation of eighteen barrels of molasses, labeled and branded "Re-boiled Open Kettle Molasses," wherein the United States was libellant, and Penick & Ford, a corporation, was claimant, the said claimant having admitted the allegations of the libel, a decree of forfeiture and confiscation was rendered, in substance and in form as follows:

In the District Court of the United States for the Western Division of the Western District of Tennessee.

UNITED STATES OF AMERICA *vs.* TWENTY-SIX BARRELS OF MOLASSES.

In this cause it appearing to the court, the United States, by George Randolph, United States Attorney, and Penick and Ford, the claimants and owners of the property seized herein, by their attorney, John D. Martin, consenting thereto, that under the process issued in this cause eighteen barrels of molasses branded "Reboiled Open Kettle Molasses, Penick & Ford, New Orleans, La.," were seized by the United States Marshal in the John H. Poston Warehouse in the city of Memphis, Shelby County, Tennessee, and that the same were subject to seizure and confiscation by the United States for the causes set forth in the libel herein, that is to say, for the reason that said eighteen barrels contained a large per cent of glucose which had been substituted in part for the said molasses and the said brands on the said barrels were misleading and calculated to deceive purchasers.

And it further appearing by like consent that the said Penick & Ford have agreed that an order may be entered at once condemning and confiscating the property to the United States.

It is, therefore, ordered, adjudged, and decreed that the said eighteen barrels of molasses above described now in the possession of the marshal of the court be and the same are hereby declared to be forfeited and confiscated to the United States.

It is further ordered, however, that upon payment by the said Penick & Ford of the costs of this proceeding and the execution and delivery of a good and sufficient bond to be filed with the clerk in this cause, conditioned that said

eighteen barrels of molasses shall not be sold or otherwise disposed of contrary to the provisions of the act, Chapter 3915, of the Fifty-ninth Congress, commonly known as the Pure Food and Drugs Act, or contrary to the laws of the State of Tennessee, then the marshal of this court is hereby directed to deliver said eighteen barrels of molasses to the said Penick & Ford, or their representatives.

But in the event the said Penick & Ford shall fail to pay the costs of this proceeding, or fail to give bond as above provided within fifteen days from date of the entry of this order, then the Marshal of this court is hereby directed, after first properly branding said eighteen barrels of molasses, to advertise the same for sale in some newspaper published in the City of Memphis, for a period of fifteen days and sell the same on the premises of the John H. Poston warehouse for cash to the highest bidder.

GEORGE RANDOLPH,
U. S. Attorney.
JOHN D. MARTIN,
Attorney for Penick & Ford.

Enter this.
McCALL, *Judge.*

The following is a statement of the facts upon which the case is based:

On April 7, 1908, an inspector of the Department of Agriculture located on the premises of the John H. Poston Warehouse, Memphis, Tenn., a consignment of goods and purchased a sample thereof, which was labeled as follows: "Penick & Ford Re-Boiled Open Kettle Molasses, New Orleans, La."

The sample purchased was one of a consignment of about 26 barrels of molasses shipped from New Orleans to Penick & Ford, Memphis, Tenn., and held by the said John H. Poston Warehouse subject to the order of Penick & Ford. An analysis of the sample was duly made by the Bureau of Chemistry, Department of Agriculture, and the following results obtained and stated:

Polarization, direct at 28° C	°V	+102.3
Polarization, invert at 28° C	do	+ 75.0
Polarization, invert at 87° C	do	+ 81.2
Sucrose (by 142.66)	per cent	21.22
Glucose (average polarization 175° V.)	do	49.82
Ash	do	3.055

The analysis showed that the product was adulterated within the meaning of section 7 of the act, in that glucose had been substituted in part for the molasses, thereby reducing its quality and strength; and that it was misbranded under section 8, in that the label declared the article to be molasses, when it was in fact a mixture of molasses and glucose.

On April 19, 1908, the facts were reported by the Secretary of Agriculture to the district attorney at Memphis, Tenn. Libel for seizure and condemnation of 18 of the barrels of molasses was duly filed in the district court of the United States for the western division of the western district of Tennessee, under section 10 of the act, upon which seizure

was forthwith made, but before publication of the monition, the claimant, Penick & Ford, appeared, waived the formality, and agreed that the consignment of molasses seized was subject to seizure and confiscation by the United States for the causes stated in the libel. Whereupon the court adjudged the molasses misbranded, and upon the filing of a good and sufficient bond in accordance with section 10 of the act, and under the provisions of the decree hereinbefore set forth, the goods were duly surrendered to the claimant.

H. W. Wiley,
F. L. Dunlap,
Geo. P. McCabe,
Board of Food and Drug Inspection.

Approved:
W. M. Hays,
Acting Secretary of Agriculture.

Washington, D. C., *May 28, 1908.*

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United States Department of Agriculture,

OFFICE OF THE SECRETARY,

BOARD OF FOOD AND DRUG INSPECTION.

NOTICE OF JUDGMENT NO. 3, FOOD AND DRUGS ACT.

MISBRANDING OF FLOUR.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of Regulation 6 of the Rules and Regulations for the Enforcement of the Act, notice is given that on the 23d day of January, 1908, in the United States District Court for the Western District of New York, the United States of America being plaintiff and the Birkett Mills, a corporation located and doing business at Penn Yan, N. Y., defendant, in a criminal proceeding on information filed by the United States Attorney, a copy of which is hereinbelow given, charging a violation of section 2 of the Food and Drugs Act of June 30, 1906, in shipping and delivering for shipment into interstate commerce a misbranded flour, the said defendant having been duly arraigned, entered a plea of guilty and the Court, in its discretion, suspended sentence.

UNITED STATES DISTRICT COURT, WESTERN DISTRICT OF NEW YORK.

THE UNITED STATES OF AMERICA, PLAINTIFF,
against
THE BIRKETT MILLS, DEFENDANT. } Information.

BE IT REMEMBERED, That Lyman M. Bass, Attorney of the United States of America, for the Western District of New York, who for the said United States in this behalf prosecutes, in his own person, comes here into the District Court of the said United States of America for the District aforesaid on this 23rd day of January, 1908, and for the said United States of America gives the Court here to understand and be informed that one The Birkett Mills, a corporation organized and existing under and by virtue of the laws of the State of New York, with its place of business at Penn Yan, in the Western District of New York, heretofore, to wit, on the 20th day of May, A. D., 1907, at said Penn Yan, in the Western District of New York, and within the jurisdiction of this Court did then and there wrongfully and unlawfully ship and deliver for shipment from the State of New York to the City of Omaha, in the State of Nebraska, two barrels of a certain wheat product, which said wheat product did not then and there contain as a constituent element thereof 5.6% of nitrogen, but did in fact contain no more than 1.37 % of nitrogen, and did then and there contain approximately 12.80% of moisture, and which said wheat product was not then and there pure gluten flour, and which said two barrels of said wheat product was then and there misbranded by having printed thereon the words "Pure Gluten Flour," contrary to the form of the statute in such case made and provided, to wit, An Act of Congress of the United States of America, entitled "An Act for preventing the manufacture, sale, or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines, and liquors and

for regulating traffic therein and for other purposes," approved June 30th, 1906, and against the peace and dignity of the said United States of America.

Whereupon the said attorney of the said United States, who prosecutes as aforesaid for the said United States of America, prays for the consideration of the Court in the premises and that due process of law be awarded against the said The Birkett Mills, a corporation organized and existing under and by virtue of the laws of the State of New York in this behalf, to make it answer to the said United States of America concerning the premises aforesaid.

LYMAN M. BASS,
United States Attorney in and for the Western District of New York.

The following is a statement of the facts upon which the case is based:

On July 15, 1907, an inspector of the Department of Agriculture purchased from Courtney & Company, Omaha, Nebr., samples of an article labeled "Pure Gluten Flour, The Birkett Mills, sole manufacturers, Penn Yan, N. Y." The flour was duly analyzed by the Bureau of Chemistry, Department of Agriculture, and the results obtained indicated that it was not a gluten flour as defined in the "Standards of Purity for Food Products," promulgated under authority of the Secretary of Agriculture, in that it contained 12.80 per cent of moisture and 1.53 per cent of nitrogen, the former 2.80 above and the latter 4.07 per cent below the standard, which is as follows:

Gluten flour is the clean, sound product made from flour by the removal of starch and contains not less than five and six-tenths (5.6) per cent of nitrogen and not more than ten (10) per cent of moisture.

By this removal of starch the product is particularly adapted to the use of those persons whose digestive organs can not dispose of the starch in ordinary flour. The starch had not been extracted from the flour in this case, hence the person who supposed he was purchasing a pure gluten flour was deceived and misled. The statement on the sacks was, therefore, false, misleading, and deceptive, and the flour was offered for sale and sold by the defendant under the distinctive name of another article in violation of section 8 of the act.

Whereupon, the defendant having been afforded an opportunity to present evidence showing any fault or error in the finding of the analyst or examiner, the case, on December 28, 1907, was transmitted by the Secretary of Agriculture to the Department of Justice and by that Department referred to the United States Attorney for the Western District of New York for prosecution with the result hereinbefore stated.

H. W. WILEY,
GEO. P. MCCABE,
Board of Food and Drug Inspection.

Approved:
JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *June 17, 1908.*

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United States Department of Agriculture,

OFFICE OF THE SECRETARY,

BOARD OF FOOD AND DRUG INSPECTION.

NOTICE OF JUDGMENT NO. 4, FOOD AND DRUGS ACT.

MISBRANDING OF COFFEE.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of Regulation 6 of the Rules and Regulations for the Enforcement of the Act, notice is given that on the 30th day of April, 1908, in the District Court of the United States for the District of Massachusetts, in a proceeding of libel for condemnation of two hundred and ten packages of coffee, labeled and branded in part "Refined Coffee, Digesto Brand," wherein the United States was libellant and the United States Coffee Refining Company, a corporation, was claimant, the cause having come on for a hearing and the claimant having waived its exceptions to the libel, and failed to answer, a decree was rendered, in substance and form as follows:

DODGE, J. This cause came on to be heard before me, and, after hearing the complainant, the claimant having waived his exceptions and failed to answer, it is now, to wit: April 30, 1908, ordered, adjudged, and decreed that said two hundred and ten packages of coffee are misbranded but not adulterated within the meaning of the Food and Drugs Act, June 30, 1906, and upon petition of the claimant it is further ordered, adjudged, and decreed that upon the payment of the costs of the libel proceedings and upon the execution and delivery of a bond in the sum of two hundred (200) dollars conditioned that said two hundred and ten packages shall not be sold or otherwise disposed of contrary to the provisions of the said act, or the laws of any State, Territory, or insular possession, said packages of coffee shall be delivered to the claimant.

This case grew out of the following state of facts:

On or about March 24, 1908, an inspector of the Department of Agriculture located on the premises of the Metropolitan Steamship Company, India Wharf, Boston, Mass., a consignment consisting of a number of cases, each of which contained one dozen packages of "Refined Coffee, Digesto Brand," subject to the order of the United States Coffee Refining Company, of New York City. The label appearing on each in full was as follows:

Refined Coffee, Digesto Brand. This high-grade coffee is the only really refined coffee known. The excess of *both* caffeine and caffetannic acid has been removed. Consequently, its flavor is better than other coffee, because this bitterness and

acidity have been extracted. Does ordinary coffee hurt you? Many people cannot drink unrefined coffee because it contains the irritating poisons, caffeine and tannic acid. They produce—headache, wakefulness, palpitation of the heart, nervousness, nervous dyspepsia, indigestion, biliousness, languid feeling, heartburn, depression of spirits, irritability, tremulousness, caffeinism. (See Century Dictionary.) Why refined coffee will not hurt you: The excess of irritating bitter poison is taken out of this coffee. It is refined by both mechanical and chemical processes.

The product was misbranded in violation of section 8 of the Food and Drugs Act, as appeared from the analysis made by the Bureau of Chemistry, Department of Agriculture, the results of which are hereinbelow set forth, in that it purported to be a refined coffee, when as a matter of fact it was not, and in that the following statements were made which were false, deceptive, and misleading: It was claimed that the coffee, by reason of its purity, was the best in the world for flavor and aroma. It was represented that the excess of both caffein and caffetannic acid had been removed from the coffee, whereas in truth and in fact no portion of these substances had been so removed, unless by the removal of a portion of the substance of the coffee itself; that its flavor was better than any other coffee because bitterness and acidity had been extracted; that the reduction of the bitter and acid elements left the coffee in a highly purified form; that the excess of irritating bitter poison had been taken out of the coffee, and that it was refined by both mechanical and chemical processes; and that the manner in which the coffee was prepared permitted the real flavoring constituent—an aromatic oil—to be extracted easily by boiling.

A sample of the coffee was obtained by an inspector of the Department of Agriculture, and on analysis the results given below were obtained. At the same time an analysis of a sample of ordinary roasted coffee purchased on the open market was made and these results are also given for comparison:

Analysis of "Digesto" and of ordinary coffee.

Determination.	"Digesto" coffee.	Ordinary roasted coffee.
Water (per cent)	2.45	3.19
Ash (per cent)	4.23	3.92
Alkalinity of ash (cc of normal acid per 100 grams of material)	48.2	48.4
Fat (per cent)	14.10	15.92
Proteids (N×6.25) (per cent)	12.43	13.50
Chloroform extract from alkaline solution of the water extract	1.24	1.30
Acidity (cc of normal alkali per 100 grams of material)	22.0	28.0
Caffetannic acid (per cent)	10.88	10.67
Caffein (per cent)	1.06	1.04

The results of these analyses showed that the sample of "Digesto" coffee corresponded very closely in composition with the average roasted coffee, contained a normal amount of caffetannic acid and caffein, and

had not been treated in any manner so as to produce a material difference between it and the average coffee.

On March 25, 1908, the facts were reported by the Secretary of Agriculture to the United States Attorney at Boston, Mass. Libel for seizure and condemnation was duly filed in the District Court of the United States for the District of Massachusetts, under section 10 of the act, with the result hereinbefore stated.

H. W. WILEY,
GEO. P. MCCABE,
Board of Food and Drug Inspection.

Approved:
W. L. MOORE,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *July 6, 1908.*

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United States Department of Agriculture,

OFFICE OF THE SECRETARY,

BOARD OF FOOD AND DRUG INSPECTION.

NOTICE OF JUDGMENT NOS. 5–11, FOOD AND DRUGS ACT.

5. Misbranding of Vanilla Extract. 6. Misbranding of Cider. 7. Misbranding of Eggs. 8. Adulteration of Milk (Formaldehyde). 9. Adulteration of Milk (Water and Formaldehyde). 10. Misbranding of Cocain Hydrochlorid. 11. Adulteration of Milk (Water).

(N. J. 5.)

MISBRANDING OF VANILLA EXTRACT.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 26th day of May, 1908, in the United States district court for the western district of New York, in a criminal prosecution by the United States against C. B. Woodworth Sons Company, a corporation conducting business in New York and elsewhere, for violations of section 2 of the aforesaid act in shipping and delivering for shipment from New York to Ohio an adulterated and misbranded vanilla extract, the said C. B. Woodworth Sons Company entered pleas of guilty, whereupon the court imposed upon it a fine of $100 in respect to the shipment of misbranded extract, and suspended sentence in respect to the shipment of adulterated extract.

The following is a statement of facts upon which the case is based:

On August 7, 1907, an inspector of the Department of Agriculture purchased from Colter & Co., Cincinnati, Ohio, a sample of food product labeled "Double Extract of Vanilla, for flavoring ice creams, custards, sauces, jellies, and pastry, C. B. Woodworth Sons Co., Rochester, N. Y." The product was duly analyzed in the Bureau of Chemistry, Department of Agriculture, and the following results were obtained and stated:

Volume (cc)	122
Vanillin (per cent)	0.049
Resins	Practically none.
Coal-tar dye	Present.

In "Standards of Purity for Food Products," Circular No. 19, Office of the Secretary, Department of Agriculture, established under authority of the act of March 3, 1903, vanilla extract is defined as follows:

Vanilla extract is a flavoring extract prepared from vanilla bean, with or without sugar or glycerin, and contains in one hundred (100) cubic centimeters the soluble matters from not less than ten (10) grams of vanilla bean.

It was thus apparent that the article was both adulterated and misbranded; adulterated because it was not vanilla extract but a mere imitation, colored with a coal-tar dye to make it resemble real vanilla extract. It was also a substitution of an imitation for a genuine food article.

It was misbranded because labeled "Double Extract of Vanilla," when it was in fact an imitation of that article, containing a mere trace of vanilla and a coal-tar dye to impart the color of pure extract.

The Secretary of Agriculture having afforded the manufacturers an opportunity to show any fault or error in the aforesaid analysis, and they having failed to do so, the facts were duly reported to the Attorney-General, who referred the case to the United States attorney for the western district of New York, who filed two informations against said C. B. Woodworth Sons Company, with the result hereinbefore stated.

H. W. Wiley,
F. L. Dunlap,
Geo. P. McCabe,
Board of Food and Drug Inspection.

Approved:
W. L. Moore,
Acting Secretary of Agriculture.

Washington, D. C., *July 17, 1908.*

(N. J. 6.)

MISBRANDING OF CIDER.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 1st day of June, 1908, in the district court of the United States for the western district of Kentucky, in a proceeding of libel for condemnation of cider, misbranded as to place of manufacture and name of manufacturer, wherein the United States was libellant and the O. L. Gregory Vinegar Company, a corporation, was claimant, the said claimant having admitted the allegations of the libel, a decree of forfeiture and condemnation was rendered in substance and form as follows:

In the District Court of the United States for the Western District of Kentucky.

The United States of America vs. Ten Barrels of Cider, etc.

Came the claimant and moved to the court to order that upon payment of the costs of the libel proceedings herein and the execution and delivery of a good and sufficient bond in the sum of $200.00, that the articles contained herein

shall not be sold or otherwise disposed of contrary to the provisions of the Food and Drugs Act, or the laws of any State, Territory, district, or insular possessions; said articles condemned herein shall be delivered to said claimant as owner thereof, and the district attorney not objecting to the amount of said bond, it is now ordered and adjudged that said motion be granted; and thereupon said claimant produced and delivered to the court its bond with James P. Gregory and Boyle G. Boyle as securities, which bond is approved by the court, and it is ordered that upon payment of the costs taxed herein to the clerk, the articles condemned herein shall be delivered to said claimant said O. L. Gregory Vinegar Company.

Enter June 1, 1908. Walter Evans, Judge.

The case grew out of the following state of facts:

On or about May 19, 1908, an inspector of the Department of Agriculture located in course of transit a quantity of cider, consisting of 10 barrels, 75 half barrels, and 50 kegs, consigned by A. Schmidt, Jr., & Bros. Wine Company, of Sandusky, Ohio, to the O. L. Gregory Vinegar Company, Paducah, Ky. The cider was marked and branded "Blue Ribbon Apple Cider, containing one-tenth per cent benzoate of soda, O. L. Gregory Vinegar Company, Paducah, Ky." Since the cider was manufactured by the consignor, A. Schmidt, Jr., & Bros. Wine Company, at Sandusky, Ohio, and the labels on the package bore the name and address of O. L. Gregory Vinegar Company stated in a manner purporting manufacture by that company at Paducah, Ky., the product was misbranded in violation of section 8 of the act.

On May 20, 1908, the facts were reported by the Secretary of Agriculture to the United States attorney at Louisville, Ky. Libel for seizure and condemnation, under section 10 of the act, was duly filed in the court aforesaid in session at Paducah, Ky., upon which seizure was forthwith made and notice given to claimant, O. L. Gregory Vinegar Company. The said claimant appeared and admitted that the cider seized was subject to seizure by the United States for the causes stated in the libel. Whereupon the court adjudged the cider misbranded, and upon the filing of a good and sufficient bond, in accordance with section 10 of the act and under the provisions of the decree hereinbefore set forth, the goods were duly surrendered to the claimant.

H. W. Wiley,
F. L. Dunlap,
Geo. P. McCabe,
Board of Food and Drug Inspection.

Approved:
W. L. Moore,
Acting Secretary of Agriculture.

Washington, D. C., *July 15, 1908.*

(N. J. 7.)

MISBRANDING OF EGGS.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 3d day of June, 1908, in the police court of the District of Columbia, in a criminal prosecution by the United States against F. Rogerson Company, a corporation, for violation of section 2 of the aforesaid act, in the sale and offer for sale in said District of misbranded eggs, that is to say, eggs contained in cases labeled "Fresh Eggs," the said Rogerson Company, defendant, entered a plea of guilty, whereupon the court imposed upon it a fine of $75.

The facts in the case were as follows:

On December 19, 1907, an inspector of the Department of Agriculture purchased from F. Rogerson Company, 920 Louisiana avenue, Washington, D. C., three dozen eggs, each dozen being contained in pasteboard boxes upon which was printed "Fresh Eggs." The eggs were forthwith examined in the Bureau of Chemistry of said Department, and the result disclosed that they were not fresh; that the albumen in some of the eggs clung to the shell membrane; that the size of the air chamber varied to the maximum of one-third of the size of the egg, showing a large amount of evaporation; that minute rosette crystals were present in the albumen of each egg, and that large rosette crystals were found in the yolk of each egg. The eggs were therefore misbranded within the meaning of section 8 of the act.

On January 28, 1908, the Secretary of Agriculture accorded F. Rogerson Company a hearing. As there was nothing disclosed at this hearing tending to show any fault or error in the result of the aforesaid examination, the facts were duly reported to the Attorney-General and by him to the United States attorney for the District of Columbia, who, on the 29th day of May, 1908, filed an information in the police court of said District alleging the sale of misbranded eggs by said F. Rogerson Company, with the result hereinbefore stated.

H. W. Wiley,
F. L. Dunlap,
Geo. P. McCabe,
Board of Food and Drug Inspection.

Approved:
W. L. Moore,
Acting Secretary of Agriculture.

Washington, D. C., *July 15, 1908.*

(N. J. S.)

ADULTERATION OF MILK (FORMALDEHYDE).

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 19th day of June, 1908, in the district court of the United States for the southern district of Illinois, southern division, in a criminal prosecution by the United States against Daniel Strassen for violation of section 2 of the aforesaid act in shipping and delivering for shipment into interstate commerce adulterated milk—that is to say, milk which had formaldehyde mixed with it—the said Daniel Strassen having entered a plea of guilty, judgment was rendered by the court in substance and form as follows:

In the district court of the United States for the southern district of Illinois, southern division.

Friday, June 19, A. D. 1908.

Present, the Honorable J. Otis Humphrey, judge.

The United States *vs.* Daniel Strassen.	Criminal information. Term No. 86. General No., 10976. Violation of Food and Drugs Act.

And now, on this 19th day of June, A. D. 1908, comes the United States, the plaintiff in this case, by W. A. Northcott, esq., United States attorney for the southern district of Illinois, and comes also the defendant, Daniel Strassen, in custody.

And the said defendant, being arraigned on the criminal information, for plea thereto says that he is guilty as therein charged, and he having nothing to say why sentence should not be pronounced against him, it is thereupon ordered by the court that sentence in this case be suspended.

The facts of the case were as follows:

On October 3, 1907, an inspector of the Department of Agriculture obtained, in St. Louis, Mo., samples of milk from a consignment of that article shipped from Fruit, Ill., by Daniel Strassen. One of the samples was forthwith subjected to analysis in the Bureau of Chemistry, Department of Agriculture. The result obtained showed the presence of formaldehyde. The milk in question was, therefore, adulterated in that it contained a deleterious and poisonous ingredient which rendered it injurious to health.

On January 15, 1908, the Secretary of Agriculture accorded Daniel Strassen a hearing. As there was nothing disclosed at this hearing tending to show any fault or error in the result of the analysis above stated, the facts were, on April 30, 1908, reported to the Attorney-General and by him to the United States attorney for the southern

district of Illinois, who, on the 1st day of June, 1908, filed an information in the court aforesaid alleging the shipment and delivering for shipment, by the said defendant, from Fruit, in the State of Illinois, to St. Louis, in the State of Missouri, of adulterated milk, with the result set forth in the judgment hereinbefore given.

H. W. Wiley,
F. L. Dunlap,
Geo. P. McCabe,
Board of Food and Drug Inspection.

Approved:
W. L. Moore,
Acting Secretary of Agriculture.
Washington, D. C., *July 15, 1908.*

(N. J. 9.)

ADULTERATION OF MILK (WATER AND FORMALDEHYDE).

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 19th day of June, 1908, in the district court of the United States for the southern district of Illinois, southern division, in a criminal prosecution by the United States against Daniel Strassen for violation of section 2 of the aforesaid act in shipping and delivering for shipment into interstate commerce adulterated milk—that is to say, milk that contained an excess of water and had formaldehyde mixed with it—the said Daniel Strassen having entered a plea of guilty a judgment was rendered by the court in substance and form as follows:

In the district court of the United States for the southern district of Illinois, southern division.

Friday, June 19th, A. D. 1908.

Present, the Honorable J. Otis Humphrey, judge.

The United States *vs.* Daniel Strassen. } Criminal information. Term No. 85. General No. 10975. Violation of Food and Drugs Act.

And now on this 19th day of June, A. D. 1908, comes the United States, the plaintiff in this case, by W. A. Northcott, esq., United States attorney for the southern district of Illinois, and comes also the defendant Daniel Strassen in custody.

And the said defendant being arraigned on the criminal information herein, for plea thereto says that he is guilty as therein charged, and he having nothing to say why sentence should not be pronounced against him, it is therefore considered and adjudged by the court that the said defendant Daniel

Strassen, for the offense by him committed in manner and form as charged in the said criminal information and as by him confessed, do pay a fine to the United States in the sum of one hundred dollars, together with the costs of this prosecution, amounting to the sum of thirty-eight dollars and forty-eight cents, and that execution issue therefor.

The facts of the case were as follows:

On October 3, 1907, an inspector of the Department of Agriculture obtained, in St. Louis, Mo., samples of milk from a consignment of that article shipped from Fruit, Ill., by Daniel Strassen. One of the samples was forthwith subjected to analysis in the Bureau of Chemistry, Department of Agriculture, and the following result obtained and stated:

Fat (per cent)	4.2
Non-fatty solids (per cent)	8.15
Formaldehyde	Present.

Milk is defined in the "Standards of Purity for Food Products," promulgated under authority of law by the Secretary of Agriculture, as follows:

Milk is the fresh, clean, lacteal secretion obtained from the complete milking of one or more healthy cows, properly fed and kept, excluding that obtained within fifteen days before and ten days after calving, and contains not less than eight and one-half (8.5) per cent of solids not fat, and not less than three and one-quarter (3.25) per cent of milk fat.

The milk in question was therefore adulterated within the meaning of section 7 of the act, in that it contained an excessive amount of water, thereby reducing its quality and strength, and in that it contained formaldehyde, a poisonous and deleterious ingredient which rendered the milk injurious to health.

On January 15, 1908, the Secretary of Agriculture accorded Daniel Strassen a hearing. As there was nothing disclosed at this hearing tending to show any fault or error in the result of the analysis above stated, the facts were, on April 30, 1908, reported to the Attorney-General and by him to the United States attorney for the southern district of Illinois, who, on the 1st day of June, 1908, filed an information in the court aforesaid alleging the shipment and delivering for shipment by the said defendant from Fruit, in the State of Illinois, to St. Louis, in the State of Missouri, of adulterated milk, with the result set forth in the judgment hereinbefore given.

H. W. Wiley,
F. L. Dunlap,
Geo. P. McCabe,
Board of Food and Drug Inspection.

Approved:

W. L. Moore,
Acting Secretary of Agriculture.

Washington, D. C., *July 15, 1908.*

(N. J. 10.)

MISBRANDING OF COCAIN HYDROCHLORID.

In accordance with the provisions of section 4 of the Food and Drug Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 22d day of June, 1908, in the police court of the District of Columbia in a criminal prosecution by the United States against J. Roach Abell for violation of section 2 of the aforesaid act in the sale and offer for sale in the said District of Columbia of a misbranded drug—that is to say, cocain hydrochlorid, a cocain derivative, contained in a package which failed to bear any label or statement of the quantity or proportion of cocain hydrochlorid contained therein, the said J. Roach Abell, defendant, entered a plea of guilty, whereupon the court imposed upon him a fine of $100.

The following is a statement of the facts out of which the case arose:

On April 5, 1908, a small package of cocain was obtained through purchase by an inspector of the Department of Agriculture from J. Roach Abell, at his place of business located at Four-and-a-half and F streets SW., Washington, D. C. The package was not labeled and bore no mark of any character to show the nature of its contents. The contents of the package were duly analyzed in the Bureau of Chemistry, Department of Agriculture, and found to consist essentially of cocain hydrochlorid. The preparation was misbranded in violation of section 8 of the act because the package in which it was sold failed to bear a label or statement thereon of the quantity or proportion of cocain hydrochlorid contained therein.

On April 9, 1908, the Secretary of Agriculture accorded the said defendant a hearing. As there was nothing disclosed at this hearing tending to show any fault or error in the result of the aforesaid analysis, the facts were duly reported to the Attorney-General and by him to the United States attorney for the District of Columbia, who, on the 6th day of June, 1908, filed an information in the police court of the said District alleging the sale of misbranded cocain hydrochlorid, with the result hereinbefore stated.

H. W. Wiley,
F. L. Dunlap,
Geo. P. McCabe,
Board of Food and Drug Inspection.

Approved:
W. L. Moore,
Acting Secretary of Agriculture.

Washington, D. C., *July 15, 1908.*

(N. J. 11.)

ADULTERATION OF MILK (WATER).

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 24th day of June, 1908, in the district court of the United States for the southern district of Illinois, southern division, in a criminal prosecution by the United States against C. Deterding for violation of section 2 of the aforesaid act in shipping and delivering for shipment into interstate commerce adulterated milk—that is to say, milk that contained an excess of water—the defendant having entered a plea of guilty a judgment was rendered by the court in substance and form as follows:

In the district court of the United States for the southern district of Illinois, southern division.

Wednesday, June 24th, A. D. 1908.

Present, the Honorable J. Otis Humphrey, judge.

The United States *vs.* C. Deterding.	Criminal information. Term No. 109. General No. 10999. Violation of Food and Drugs Act.

And now on this 24th day of June, A. D. 1908, comes the United States, the plaintiff in this case, by W. A. Northcott, esq., United States attorney for the southern district of Illinois, and comes also the defendant C. Deterding in person.

And the said defendant being arraigned on the criminal information herein, for plea thereto says that he is guilty as therein charged, and he having nothing to say why sentence should not be pronounced against him, it is therefore considered and adjudged by the court that the said defendant C. Deterding, for the offense by him committed in manner and form as charged in the said criminal information and as by him confessed, do pay a fine to the United States in the sum of one hundred dollars, together with the costs of this prosecution, amounting to the sum of thirty-one dollars and ninety-five cents, and that execution issue therefor.

The facts in the case were as follows:

On October 1, 1907, an inspector of the Department of Agriculture obtained, in St. Louis, Mo., samples of milk from a consignment of that article shipped from Formosa, Ill., by C. Deterding. One of the samples was forthwith subjected to analysis in the Bureau of Chemistry, Department of Agriculture, and the following result obtained and stated:

Fat (per cent)	3.2
Non-fatty solids (per cent)	6.33

Milk is defined in the "Standards of Purity for Food Products," promulgated under authority of law by the Secretary of Agriculture, as follows:

> Milk is the fresh, clean, lacteal secretion obtained by the complete milking of one or more healthy cows, properly fed and kept, excluding that obtained within fifteen days before and ten days after calving, and contains not less than eight and one-half (8.5) per cent of solids not fat, and not less than three and one-quarter (3.25) per cent of milk fat.

The milk in question was, therefore, adulterated within the meaning of section 7 of the act, in that it contained an excessive amount of water, thereby reducing its quality and strength.

On January 15, 1908, the Secretary of Agriculture accorded C. Deterding a hearing. As there was nothing disclosed at this hearing tending to show any fault or error in the result of the analysis above stated, the facts were on April 30, 1908, reported to the Attorney-General and by him to the United States attorney for the southern district of Illinois, who on the 1st day of June, 1908, filed an information in the court aforesaid alleging the shipment and delivering for shipment by the said defendant from Formosa, in the State of Illinois, to St. Louis, in the State of Missouri, of adulterated milk with the result set forth in the judgment hereinbefore given.

H. W. Wiley,
F. L. Dunlap,
Geo. P. McCabe,
Board of Food and Drug Inspection.

Approved:
W. L. Moore,
Acting Secretary of Agriculture.

Washington, D. C., *July 15, 1908.*

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United States Department of Agriculture,

OFFICE OF THE SECRETARY,

BOARD OF FOOD AND DRUG INSPECTION.

NOTICE OF JUDGMENT NOS. 12–17, FOOD AND DRUGS ACT.

(N. J. 12.)

MISBRANDING OF FLOUR.

(Hard spring wheat mixed with durum.)

Under authority of section 4 of the Food and Drugs Act, June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the aforesaid act, notice is given that on the 9th day of May, 1908, in the United States district court for the northern district of Illinois, eastern division, in a proceeding of libel for condemnation against divers sacks of flour labeled and branded "AXA Highest Patent, The Gardner Mill, Seymour Carter, Hastings, Minn. Flour manufactured from Finest Selected Hard Spring Wheat," wherein the United States was libelant and Seymour Carter claimant, the cause having come on for a hearing and the defendant having failed to show cause against condemnation, a decree adjudging the product misbranded was rendered, in substance and form as follows:

In the District Court of the United States of America for the Northern District of Illinois, Eastern Division.

UNITED STATES OF AMERICA *vs.* ONE CARLOAD OF FLOUR, CONTAINED IN WABASH CAR NO. 71188.	9988.

This cause coming on to be heard upon the motion of Edwin W. Sims, United States attorney for the northern district of Illinois, for leave to amend the

information herein by striking out, in the twelfth line of said information, the words "adulterated and" and by adding to the prayer in said information, after the words "or sale," the words "or otherwise disposed of," said motion is, by agreement of the parties, hereby allowed, and said information is so amended.

And this cause coming on further to be heard upon said information as amended, the answer of the claimant, Seymour Carter, heretofore filed, which is ordered to stand as the answer of the claimant to the information as amended and upon the replication of the United States thereto, said claimant waiving a trial by jury.

The court finds that it has jurisdiction of this cause and of the respective parties hereto.

And the court being fully advised in the premises and having heard the arguments of counsel, finds that said carload of flour in Wabash car No. 71188 contained certain sacks of flour which were branded: "AXA Highest Patent, The Gardner Mill, Seymour Carter, Hastings, Minn. Flour manufactured from Finest Selected Hard Spring Wheat."

The court further finds that there was contained in said sacks flour manufactured from and containing approximately fifteen per cent durum wheat and eighty-five per cent hard spring wheat and that the same was being transported from the State of Minnesota to the State of Ohio through this division and district; the court further finds that said durum wheat is not what is commonly known and classified as hard spring wheat, and that flour made from a mixture of durum and hard spring wheat is misbranded under the Food and Drugs Act of June 30, 1906, if it be labeled "Flour manufactured from finest selected hard spring wheat," and that by reason thereof said flour contained in Wabash car No. 71188 was misbranded within the meaning of the act of June 30, 1906, known as the Food and Drugs Act, as alleged in said information as amended.

It is therefore ordered, adjudged, and decreed that upon payment of the costs of this libel proceeding, the bond heretofore given by the claimant to produce said flour upon the order of this court be canceled upon the claimant, Seymour Carter, entering into a bond with sureties to be approved by the clerk of this court, in the sum of two thousand dollars, conditioned that said claimant, his agents, or attorneys shall not dispose of said flour contained in Wabash car No. 71188, in violation of the act of June 30, 1906, known as the Food and Drugs Act.

K. M. Landis.

Entered May 9, 1908.

The facts concerning the case are as follows: On or about January 17, 1908, an inspector of the Department of Agriculture reported the introduction into interstate commerce of a carload of 96-pound cotton sacks of flour, billed to Seymour Carter, Greenville, Ohio, care Wabash Railroad avenue, Chicago, Ill., in a Wabash Railroad Company car, No. 71188. The flour was branded as follows: "AXA Highest Patent, The Gardner Mill, Seymour Carter, Hastings, Minn. Flour manufactured from Finest Selected Hard Spring Wheat," whereas, in truth and in fact, the wheat from which the product was milled contained approximately 15 per cent of durum wheat. Under the standards set by the board of grain appeals for the State of Minnesota, and under the common acceptance of the terms, hard spring wheat is "bright, well cleaned, and composed mostly of Hard

Scotch Fife, to weigh not less than 58 pounds to the measured bushel." It follows that a flour made in whole or in part from durum wheat should not be branded as being milled from "hard spring wheat." The flour in question appeared to be misbranded within the terms of section 8 of the act, and on January 17, 1908, the Secretary of Agriculture reported the facts to the United States attorney for the northern district of Illinois. A libel for seizure and condemnation in the nature of an information was filed by the United States attorney, under section 10 of the act, and the flour was seized by the United States marshal. The claimant, Seymour Carter, in answer, admitted that the product in question was made in part from durum wheat, and the branding as set forth in the libel, but denied that it was subject to confiscation under the food and drugs act. The court having been fully advised in the premises, and having heard the argument of counsel, adjudged the flour misbranded and upon the filing of a good and sufficient bond, in accordance with section 10 of the act, and under the provisions of the decree hereinbefore set forth, the goods were duly released to the claimant.

H. W. Wiley,
F. L. Dunlap,
Geo. P. McCabe,
Board of Food and Drug Inspection.

Approved:
James Wilson,
Secretary of Agriculture.

Washington, D. C., *June 16, 1908.*

(N. J. 13.)

MISBRANDING OF FLOUR.

(As to place and manner of manufacture.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 10th day of June, 1908, in the supreme court of the District of Columbia, in a proceeding of libel for condemnation of 240 sacks, more or less, of misbranded flour, that is to say, flour manufactured in Ohio and made from wheat grown in the same State, but which was labeled and branded "Paragon Minnesota Cream Roller Process," wherein the United States were libelants and the Orrville Milling Company of Orrville, Ohio, was claimant, the cause having come on for a hearing and the Orrville Milling Company having defaulted in fil-

ing answer, a decree of forfeiture and condemnation was rendered in substance and in form as follows:

In the Supreme Court of the District of Columbia.

UNITED STATES OF AMERICA
vs.
240 SACKS OF FLOUR.
} District Docket No. 771.

DECREE FOR CONDEMNATION.

On motion of Daniel W. Baker, esquire, attorney for the libelant, and it appearing to the court that upon the libel filed herein a warrant of arrest was duly issued and served on the 18th day of May, 1908, and that by virtue of the warrant the marshal has seized 200 ⅛ sacks of flour branded as set out in the petition herein and inventoried as of the value of $87.50, the said 200 ⅛ sacks of flour having been consigned by the Orrville Milling Company, of Orrville, Ohio, from said Orrville, Ohio, to the Orrville Milling Company, at Washington, D. C., F. G. Swain and Son, Washington, D. C., to be notified, and now being stored in the custody of the said marshal, and it further appearing that the said Orrville Milling Company was duly warned to appear herein on the 8th day of June, 1908, and that due and legal notice and publication was ordered herein on the 26th day of May, 1908, and that such notice was given, and publication had, in conformity with the terms of said order, as appears by the proofs of publication of the Washington Star and the Washington Post, filed herein, notifying all other persons having any claim, right, or interest herein, to appear on the said day to answer the exigencies of the said libel, and the said Orrville Milling Company having defaulted in filing an answer to the said libel, but appearing herein through its attorney in fact and agent, Albert D. Brockett, consenting hereto, and no objection having been signified to the court, it is, this 10th day of June, 1908, ordered, adjudged, and decreed that the said 200 ⅛ sacks of flour, with contents as aforesaid, labeled and branded "Paragon Minnesota Cream Roller Process. Sole Agent F. G. Swain and Son, Washington, D. C.," be, and they hereby are, declared to be misbranded in violation of the act of June 30, 1906, as charged in the said libel; and it is further ordered that the said 200 ⅛ sacks of flour and the contents thereof be, and they hereby are, condemned and ordered to be disposed of by sale, as prayed for in the said libel and provided for in the said act of June 30, 1906. It is further ordered that the proceeds of said sale, less the legal costs and charges, shall be paid into the Treasury of the United States. It is provided, however, that upon payment of all the costs of the proceedings herein, including the cost of hauling, storage, watchman, publication, and all costs incidental to or contracted in these proceedings, and the execution and delivery by the said Orrville Milling Company to the libelant of a good and sufficient bond in the penalty of $500, conditioned that the said 200 ⅛ sacks of flour, with contents misbranded as aforesaid, shall not be sold or otherwise disposed of contrary to the provisions of the said act of June 30, 1906, the said marshal shall redeliver the said 200 ⅛ sacks of flour to the said Orrville Milling Company or its agent, in lieu of disposing of them by sale as aforesaid, the said bond to be filed herein, if at all, on or before the 20th day of June, 1908.

(Signed) JOB BARNARD,
Justice.

Filed July 10, 1908.

J. R. YOUNG, *Clerk.*

The case grew out of the following state of facts:

On or about May 14, 1908, an inspector of the Department of Agriculture found in a freight car in the District of Columbia 240 sacks, more or less, of flour consigned and shipped by the Orrville Milling Company, of Orrville, Ohio, to the Orrville Milling Company, Washington, D. C., F. G. Swain & Son, Washington, D. C., to be notified. The sacks of flour were labeled and branded "Paragon Minnesota Cream Roller Process;" whereas, in fact, the flour was neither grown nor manufactured in the State of Minnesota, and was not a product of the cream roller process, but was a flour manufactured at Orrville, Ohio, from wheat grown in the State of Ohio, and commonly known as "Ohio winter wheat."

On May 14, 1908, the facts were reported by the Secretary of Agriculture to the United States attorney for the District of Columbia, and libel for seizure and condemnation was duly filed with the supreme court of the District of Columbia under section 10 of the act. The claimant having failed to answer or show reason against seizure and confiscation by the United States for the causes stated in the libel, the court adjudged the flour misbranded, and upon the filing of a good and sufficient bond in accordance with section 10 of the act and under the provisions of the decree hereinbefore set forth, the goods were duly surrendered to the said claimant.

H. W. Wiley,
F. L. Dunlap,
Board of Food and Drug Inspection.

Approved:
W. M. Hays,
Acting Secretary of Agriculture.

Washington, D. C., *August 27, 1908.*

(N. J. 14.)

MISBRANDING OF VANILLA EXTRACT.

(Imitation colored with caramel.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 7th day of July, 1908, in the district court of the United States for the western division of the southern district of Ohio, in a criminal prosecution by the United States against Edwin A. Steinbock and Proctor D. Patrick, trading under the firm name of Steinbock & Patrick, for

violation of section 2 of the aforesaid act in shipping and delivering for shipment from Ohio to Indiana of an adulterated and misbranded vanilla extract, the said Edwin A. Steinbock and Proctor D. Patrick entered pleas of guilty, whereupon the court imposed upon each of them a fine of $5.

The following is a statement of facts upon which the case was based:

On August 22, 1907, an inspector of the Department of Agriculture purchased from A. R. Norris, Terre Haute, Ind., a sample of a food product labeled "Steinbock & Patrick's Marvel Extract of Vanilla, 2 oz." The sample was subjected to analysis in the Bureau of Chemistry and the following result obtained and stated:

Coumarin (per cent)	0.032
Vanillin (per cent)	0.07
Resins	Very slight.
Coal-tar dye	None.
Caramel	Present.
Weight found (grams)	53.5
Weight should be (grams)	56.5

In "Standards of Purity for Food Products," established under authority of the act of March 3, 1903, and published as Circular 19, Office of the Secretary, U. S. Department of Agriculture, vanilla extract is defined as follows:

> Vanilla extract is the flavoring extract prepared from vanilla bean, with or without sugar or glycerin, and contains in one hundred (100) cubic centimeters the soluble matters from not less than ten (10) grams of vanilla bean.

It was evident that the product was both adulterated and misbranded; adulterated because it purported to be an extract of vanilla when, in fact, some other substances, coumarin and vanillin, had been substituted for vanilla extract. The article was, therefore, a mere imitation colored with caramel to resemble real vanilla extract, thereby concealing inferiority and deceiving the public. It was misbranded for the reason that it was labeled "Extract of Vanilla," when in fact it was an imitation of that article, having in it no extract of vanilla bean, and was colored with caramel to impart the color of the pure extract. It was further misbranded because of the label on the carton, which declared the quantity to be 2 ounces, whereas the bottle contained 3.1 grams below the quantity required to make a full 2 ounces.

The Secretary of Agriculture having, on June 25, 1908, afforded the manufacturers an opportunity to show any fault or error in the aforesaid analysis, and they having failed to do so, the facts were duly reported to the Attorney-General and the case referred to the United States attorney for the southern district of Ohio, who filed an

information against the said Steinbock and Patrick, with the result hereinbefore stated.

H. W. Wiley,
F. L. Dunlap,
Board of Food and Drug Inspection.

Approved:
W. M. Hays,
Acting Secretary of Agriculture.
Washington, D. C., *August 27, 1908.*

(N. J. 15.)

ADULTERATION AND MISBRANDING OF WHISKEY.

(Neutral spirits artificially colored.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 7th day of July, 1908, in the district court of the United States for the western district of New York, in a proceeding of libel for condemnation of an adulterated and misbranded liquor, that is to say, 88 cases labeled and branded "Canadian Whiskey, Gooderham & Worts," wherein the United States was libelant and Daniel H. Person, William Person, and Frank P. Person, doing business under the firm name and style of C. Person's Sons, of Buffalo, N. Y., were claimants and defendants, the cause having come on for a hearing and the said claimants having failed to answer, a decree of forfeiture and condemnation was rendered in substance and in form as follows:

United States District Court, Western District of New York.

The United States of America, *Libelant*, *vs.* 93 cases, containing 12 bottles each, of alleged whiskey, and Daniel H. Person, William Person, and Frank P. Person, doing business under the firm name and style of C. Person's Sons, *Defendants*.	No. 79.

On motion of Lyman M. Bass, attorney of the United States in and for the western district of New York, and attorney for the libelant herein, and it appearing to the court that upon the libel filed herein on June 3rd, 1908, monitions were issued and the above-named defendants were cited to appear on June 30, 1908, and that a warrant of arrest was duly issued and served on June 4th, 1908, and that by virtue of the said warrant the marshal has seized eighty-eight cases, containing 12 bottles each, of alleged whiskey, the said eighty-eight cases, containing 12 bottles each, with contents, having been in the possession of Daniel H. Person, William Person, and Frank P. Person, doing business under the firm name and style of C. Person's Sons, and now being

stored in the custody of the said marshal; and it further appearing that due and legal notice and proclamation were given to all other persons having any claim, right, or interest herein to appear on said June 30, 1908, and answer the exigencies of the said libel; and on said return day the matter having been duly adjourned one week to the 7th day of July, 1908, and the said Daniel H. Person, William Person, and Frank P. Person, doing business under the firm name and style of C. Person's Sons, having defaulted in filing answer to the said libel, but appearing in person and by their representatives, and consenting hereto, and no objection having been signified to the court, it is, on this 7th day of July, 1908,

Ordered, adjudged, and decreed, That the said eighty-eight cases, containing twelve bottles each, with contents, as aforesaid, branded "Canadian Whisky," etc., be, and they are, hereby declared to be misbranded and adulterated in violation of the act of June 30th, 1906, as charged in the said libel.

And it is further ordered, That the said eighty-eight cases, containing twelve bottles each, with contents as aforesaid, branded "Canadian Whisky," etc., be, and they are, hereby condemned and ordered to be disposed of by sale of the said contents as prayed for in the said libel, and provided for in the said act of June 30, 1906.

It is further ordered, That the proceeds of the said sale, less the legal costs and charges, shall be paid into the Treasury of the United States.

It is provided, however, That upon the payment of all the costs of the proceedings herein, including the costs of hauling, storage, watchman, and all costs incident to or contracted in these proceedings, and the execution and delivery by the said Daniel H. Person, William Person, and Frank P. Person, doing business under the firm name and style of C. Person's Sons, to the libelant of a good and sufficient bond in the penalty of $2,000, conditioned that the said eighty-eight cases, containing twelve bottles each, with contents branded "Canadian Whisky," as aforesaid, shall not be sold or otherwise disposed of contrary to the provisions of the said act of June 30, 1906, the said marshal shall redeliver the said eighty-eight cases, containing 12 bottles each, as aforesaid, to the said Daniel H. Person, William Person, and Frank P. Person, doing business under the firm name and style of C. Person's Sons, in lieu of disposing of them by sale as aforesaid, the said bond to be filed herein, if at all, on or before the 12th day of July, 1908.

Dated, Buffalo, N. Y., July 7th, 1908.

(Signed) JOHN R. HAZEL,
United States Judge.

The facts upon which the case was based were as follows:

On or about May 24, 1908, an inspector of the Department of Agriculture found in the warehouse of C. Person's Sons at Buffalo a number of cases of a liquor purporting to be whiskey. The cases were branded "Canadian Whiskey" and each contained 12 bottles bearing the brand "Canadian Rye Whiskey." The name of Gooderham & Worts, of Toronto, Canada, appeared on the label of each case and bottle as manufacturers, and the goods were imported by that firm and entered through the port of Buffalo, consigned to C. Person's Sons, and delivery duly made to them. An analysis of the sample of the goods was forthwith made in the Bureau of Chemistry of the Department of Agriculture, and the following results obtained and stated:

Proof	85.8
Grams per 100 liters of 100 proof alcohol:	
Total solids	291.9
Acids	9.8
Esters	12.1
Aldehydes	1.6
Furfural	None.
Fusel oil	16.0
Total color (degrees, brewer's scale)	19.8
Color insoluble in water (per cent)	0.0
Color soluble in ether (per cent)	0.0
Color insoluble in amyl alcohol (per cent)	73.0

These results showed that all of the color present was artificial and that the spirit was of the grade known as commercial alcohol.

On May 25, 1908, the facts were reported by the Secretary of Agriculture to the United States attorney at Buffalo, and libel for seizure and condemnation was duly filed in the district court of the United States for the western district of New York under section 10 of the act, alleging that the liquor in question was adulterated and misbranded, in the following language:

That the said liquor is adulterated with neutral spirits, and colored with caramel, the product being practically neutral spirits artificially colored in imitation of aged whiskey, thereby concealing inferiority, and is misbranded in that the product is an imitation of another product of distinctive name and quality, without being labeled "imitation," and without having the word "imitation" plainly stated upon the package in which the fluid or liquid is contained and offered for sale, and is further misbranded in that it is sold under the name of another article, and further misbranded in that it is labeled and branded so as to deceive and mislead all purchasers.

The seizure was forthwith made and notice given to said defendant to show reason why the said liquor was not subject to seizure and confiscation by the United States for the causes stated in the libel, and they having defaulted in filing answer, the decree hereinbefore set forth was rendered by the court.

H. W. Wiley,
F. L. Dunlap,
Board of Food and Drug Inspection.

Approved:
W. M. Hays,
Acting Secretary of Agriculture.

Washington, D. C., *August 27, 1908.*

(N. J. 16.)

MISBRANDING OF A DRUG PRODUCT.

(Sartoin Skin Food.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regu-

lations for the enforcement of the act, notice is given that on the 11th day of July, 1908, in the United States district court for the western division of the southern district of Ohio, in a criminal prosecution brought by the United States against William E. Pilkinton and A. P. Foose, doing business under the firm name of Globe Pharmaceutical Company, at Dayton, Ohio, for violation of section 2 of the aforesaid act in shipping and delivering for shipment from the State of Ohio to the District of Columbia a misbranded drug product, that is to say, a preparation labeled and branded "Sartoin Skin Food," the said William E. Pilkinton and A. P. Foose entered pleas of guilty, whereupon the court imposed upon each of them a fine of $10.

The facts in the case were as follows:

On November 22, 1907, an inspector of the Department of Agriculture purchased from the Washington Wholesale Drug Exchange, Washington, D. C., samples of a product labeled as follows:

SARTOIN

(Trade-mark)

SKIN FOOD

Prepared only by

GLOBE PHARMACEUTICAL CO.

Dayton, Ohio, U. S. A.

FORMULA.

2 oz. Rose Water
4 oz. Sartoin
1 oz. Cologne Spirits
16 oz. Hot Water

PROPERTIES.—Produces a soft, velvety tint on the roughest of skins and is remarkably effective in the treatment of pimples, blackheads, rash, blemishes and sunburn and chapped skin. Also highly beneficial for men's toilet after shaving; relieves all soreness and smarting.

SEE CIRCULAR INSIDE.

The circular to which attention is drawn stated the directions for using and recited the virtues of the preparation in part as follows:

Is probably the most effective remedy known to science for sunburn, rashes, and all skin blemishes, as well as creating the normal growth of all parts not fully developed or shrunken. It is absolutely harmless to the most delicate skin, and if persistently used will benefit the worst complexion.

One of the samples was subjected to analysis in the Bureau of Chemistry of the Department of Agriculture and the result obtained showed that it consisted essentially of commercial magnesium sulphate (epsom salts) colored with a pink dye.

The statements appearing in the label on the product representing that it was a " skin food," that it would produce a " soft, velvety tint on the roughest of skins," and was " remarkably effective in the treatment of pimples, blackheads, rash, blemishes and sunburn, and chapped skin " were false, misleading, and deceptive in the following particulars: That there is no such thing as a " skin food " separate and apart from a food that nourishes all parts of the body; that the said article and preparation could not possibly be a food under any circumstances; that the chemical analysis thereof showed said article and preparation to be simply commercial magnesium sulphate colored with some pink dye; that the said commercial magnesium sulphate, commonly known as epsom salts, is a mere purgative when taken internally, and when applied externally, as directed by the circular inclosed in each package of said article and preparation, could have no beneficial effect whatever; and that the said pink dye was not a food and in all probability would have poisonous effects.

The Secretary of Agriculture having afforded the manufacturers an opportunity to show any fault or error in the findings of the analyst, and they having failed to do so, the facts were reported to the Attorney-General and the case referred to the United States attorney for the southern district of Ohio, who filed an information against the said defendants with the result hereinbefore stated.

H. W. Wiley,
F. L. Dunlap,
Board of Food and Drug Inspection.

Approved:
W. M. Hays,
Acting Secretary of Agriculture.

Washington, D. C., *August 27, 1908.*

(N. J. 17.)

MISBRANDING OF FLOUR.

(As to place of manufacture and name of manufacturer.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 10th day of June, 1908, in the supreme court of the District of Columbia in a proceeding of libel for condemnation of 1,200 sacks of

flour, misbranded as to place of manufacture and name of manufacturer, wherein the United States were libelants and the Orrville Milling Company, Orrville, Ohio, was claimant, said claimant having admitted the allegations of the libel, a decree of forfeiture and condemnation was rendered in substance and in form as follows:

In the Supreme Court of the District of Columbia, holding a district court.

UNITED STATES OF AMERICA, *Libellant*,
vs.
1,200 SACKS OF FLOUR.
} District Docket No. 770.

DECREE FOR CONDEMNATION.

On motion of Daniel W. Baker, esquire, attorney for the libellant, and it appearing to the court that upon libel filed herein a warrant of arrest was duly issued and served on the 18th day of May, 1908, and that by virtue of the said warrant the marshal has seized 1,200 sacks of flour, branded as set out in the petition herein, and inventoried as of the value of $262.50, the said 1,200 sacks of flour having been consigned by the Orrville Milling Company, of Orrville, Ohio, from said Orrville, Ohio, to the Orrville Milling Company, at Washington, D. C., the Sanitary Grocery Company, of Washington, D. C., to be notified, and now being stored in the custody of the said marshal; and it further appearing that the said Orrville Milling Company was duly warned to appear herein on the eighth day of June, 1908, and that due and legal notice and publication was had pursuant to the order herein passed on the 26th day of May, 1908, as appears by proofs of publication of the Washington Star and the Washington Post filed herein, notifying all other persons having any claim, right, or interest herein to appear on the said day to answer the exigencies of the said libel; and the said Orrville Milling Company having defaulted in filing an answer to said libel, but appearing herein by its attorney in fact and agent, Albert D. Brockett, and consenting hereto, and no objection having been signified, it is this 10th day of June ordered, adjudged, and decreed that the said 1,200 sacks of flour, with contents as aforesaid, labeled and branded "Cereta High Grade Patent Flour, The Sanitary Grocery Company, Washington, D. C.," be, and they hereby are, declared to be misbranded in violation of the act of June 30, 1906, as charged in the said libel; and it is further ordered that said 1,200 sacks of flour and the contents thereof be, and they hereby are, condemned and ordered to be disposed of by sale, as prayed for in the said libel and provided for in the said act of June 30, 1906. It is further ordered that the proceeds of said sale, less the legal costs and charges, shall be paid into the Treasury of the United States, and should the proceeds of said sale not equal the costs in the case, it is further ordered that the respondent, the Orrville Milling Company, be, and it hereby is, required to pay the difference between the amount of said costs and the proceeds of said sale. It is provided, however, that upon payment of all the costs in these proceedings, including the costs of hauling, storage, watchman, publication, and all costs incidental to or contracted in these proceedings, and the execution and delivery by the said Orrville Milling Company to the libellant of a good and sufficient bond in the penalty of a thousand dollars, conditioned that the said 1,200 sacks of flour, with contents misbranded as aforesaid, shall not be sold or otherwise disposed of contrary to the provisions of the said act of June 30, 1906, the said marshal shall redeliver the said 1,200 sacks of flour to the said Orrville Milling Company or its agent, in lieu of disposing of them

by sale; the said bond to be filed herein, if at all, on or before the first day of July, 1908.

By the Court.

(Signed) JOB BARNARD, *Justice.*

Filed June 10, 1908.

J. R. YOUNG, *Clerk.*

The case was based on the following facts:

On or about May 14, 1908, an inspector of the Department of Agriculture found in a freight car within the District of Columbia a consignment of flour, consisting of 1,200 sacks labeled and branded "Cereta High Grade Patent Flour. The Sanitary Grocery Company, Washington, D. C." The flour was consigned and shipped by the Orrville Milling Company, of Orrville, Ohio, to the Orrville Milling Company, Washington, D. C., the Sanitary Grocery Company, Washington, D. C., to be notified. In violation of section 8 of the act the flour was misbranded, in that it was labeled in a manner which purported manufacture by the Sanitary Grocery Company at Washington, D. C., whereas, as a matter of fact, the product was manufactured and prepared by the Orrville Milling Company at Orrville, Ohio.

On May 14, 1908, the facts were reported to the United States attorney for the District of Columbia. Libel for seizure and condemnation under section 10 of the act was duly filed in the court aforesaid, upon which seizure was forthwith made and notice given to the claimant, Orrville Milling Company. The said claimant failed to answer or show cause against seizure and confiscation by the United States, whereupon the court judged the flour misbranded as alleged in the label, and on the filing of a good and sufficient bond, in accordance with section 10 of the act and under the provisions of the decree hereinbefore set forth, the goods were duly surrendered to the claimant.

H. W. WILEY,
F. L. DUNLAP,
Board of Food and Drug Inspection.

Approved:

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *August 27, 1908.*

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Notice of Judgment Nos. 18–21. Issued October 2, 1908.

United States Department of Agriculture,

OFFICE OF THE SECRETARY,

BOARD OF FOOD AND DRUG INSPECTION.

NOTICE OF JUDGMENT NOS. 18–21, FOOD AND DRUGS ACT.

All Concerning the Misbranding and Adulteration of Honey, Glucose and Invert Sugar Being Present.

(N. J. 18.)

MISBRANDING AND ADULTERATION OF HONEY.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 11th day of July, 1908, in the district court of the United States for the eastern district of Michigan, southern division, in a proceeding of libel for condemnation of eight barrels of adulterated and misbranded honey, wherein the United States were libelants and Rogers Holloway Company, a corporation of Philadelphia, Pa., was claimant, the case coming on for a hearing and the said claimant having failed to answer a decree of forfeiture and condemnation, as hereinbelow set out, was rendered and an order was made by the court that the goods be returned to claimant upon the bond theretofore filed by it in accordance with section 10 of the act.

UNITED STATES OF AMERICA.

The District Court of the United States for the Eastern District of Michigan, Southern Division.

UNITED STATES OF AMERICA *vs.* 8 BARRELS "HONEY."	No. 5190.

Rogers Holloway Company, a corporation organized under the laws of the State of Pennsylvania, and a citizen thereof, by Hunt and Altland, its proctors, comes now into court and acknowledges the misbranding and adulteration of the above-entitled honey as set forth in the amended libel filed in said cause, and consents that the same may be condemned and forfeited to the United

States under the provisions of the act of Congress of June 30, 1906, entitled, "An act for preventing the manufacture, sale, or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines, or liquors, and for regulating traffic therein, and for other purposes," subject to the right of said claimant to give bond therefor and obtain delivery thereof upon the terms and conditions of section 10 of the above-entitled act of Congress.

Now, therefore, it is hereby ordered, adjudged, and decreed that the said honey be, and the same is hereby, condemned and forfeited to the United States as being misbranded and adulterated within the provisions of the aforesaid act of Congress.

(Signed) HENRY H. SWAN,
District Judge.

JULY 11, 1908.

The following is a statement of facts upon which the case was based: On or about January 24, 1908, an inspector of the Department of Agriculture located in the possession of the Globe Tobacco Company, of Detroit, Mich., a consignment of eight barrels of food product bearing the mark "H," inclosed in a design the shape of a diamond, shipped and consigned to that company by the Rogers Holloway Company, of Philadelphia, as a pure, strained honey. A sample purchased by inspector was forthwith subjected to analysis in the Bureau of Chemistry, and the results obtained showed that it contained invert sugar and glucose in a small amount. It was evident that the product was not a pure honey as represented, but was both adulterated and misbranded—adulterated because invert sugar and glucose had been mixed and packed with the honey, thereby reducing and lowering its quality and strength; and misbranded in that it was sold as pure honey.

On January 27, 1908, the facts were reported by the Secretary of Agriculture to the United States attorney at Detroit. Libel for seizure and condemnation of the honey in question was duly filed in the district court of the United States for the eastern district of Michigan, southern division, under section 10 of the act, alleging that the said honey was adulterated and misbranded. The seizure was forthwith made and notice given to the said claimant to show reason why the honey was not subject to seizure and confiscation by the United States for the causes stated in the libel; and said claimant having failed to answer, the decree as hereinbefore set forth was rendered by the court.

H. W. WILEY,
F. L. DUNLAP,
Board of Food and Drug Inspection.

Approved:
JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *August 28, 1908.*

(N. J. 19.)

MISBRANDING AND ADULTERATION OF HONEY.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 11th day of July, 1908, in the district court of the United States for the eastern district of Michigan, southern division, in a proceeding of libel for condemnation of 200 cases of adulterated and misbranded honey, wherein the United States were libelants and Rogers Holloway Company, a corporation of Philadelphia, Pa., was claimant, the case coming on for a hearing and the said claimant having failed to answer a decree of forfeiture and condemnation, as herein below set out, was rendered and an order was made by the court that the goods be returned to claimant upon the bond theretofore filed by it in accordance with section 10 of the act.

UNITED STATES OF AMERICA.

The District Court of the United States for the Eastern District of Michigan, Southern Division.

UNITED STATES OF AMERICA
vs.
200 CASES "HONEY." } No. 5191.

Rogers Holloway Company, a corporation organized under the laws of the State of Pennsylvania, and a citizen thereof, by Hunt and Altland, its proctors, comes now into court and acknowledges the misbranding and adulteration of the above-entitled honey as set forth in the amended libel filed in said cause, and consents that the same may be condemned and forfeited to the United States under the provisions of the act of Congress of June 30, 1906, entitled, "An act for preventing the manufacture, sale, or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes," subject to the right of said claimant to give bond therefor and obtain delivery thereof upon the terms and conditions of section 10 of the above-entitled act of Congress.

Now, therefore, it is hereby ordered, adjudged, and decreed that the said honey be, and the same is, hereby condemned and forfeited to the United States as being misbranded and adulterated within the provisions of the aforesaid act of Congress.

(Signed) HENRY H. SWAN,
District Judge.

JULY 11, 1908.

The following is a statement of facts upon which the case was based: On or about January 24, 1908, an inspector of the Department of Agriculture found in the possession of the Natural Packing Company, Detroit, Mich., a consignment of 200 cases of food product bearing the mark "H," inclosed in a design the shape of a diamond, shipped and consigned to that company by the Rogers Holloway Com-

pany, of Philadelphia, as a pure, strained honey. A sample purchased by an inspector was forthwith subjected to analysis in the Bureau of Chemistry, and the results obtained showed that it contained invert sugar and glucose in a small amount. It appeared that the product was not a pure honey, as represented, but was both adulterated and misbranded—adulterated because invert sugar and glucose had been mixed and packed with the honey, thereby reducing and lowering its quality and strength; and misbranded in that it was sold as pure honey.

On January 27, 1908, the facts were reported by the Secretary of Agriculture to the United States attorney at Detroit. Libel for seizure and condemnation of the honey in question was duly filed in the district court of the United States for the eastern district of Michigan, southern division, under section 10 of the act, alleging that the said honey was adulterated and misbranded. The seizure was forthwith made and notice given to the said claimant to show reason why the honey was not subject to seizure and confiscation by the United States for the causes stated in the libel; and said claimant having failed to answer. the decree as hereinbefore set forth was rendered by the court.

H. W. Wiley,
F. L. Dunlap,
Board of Food and Drug Inspection.

Approved:
James Wilson,
Secretary of Agriculture.

Washington, D. C., *August 28, 1908.*

(N. J. 20.)

MISBRANDING AND ADULTERATION OF HONEY.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 11th day of July, 1908, in the district court of the United States for the eastern district of Michigan, southern division, in a proceeding of libel for condemnation of six barrels of adulterated and misbranded honey, wherein the United States were libelants and Rogers Holloway Company, a corporation of Philadelphia, Pa., was claimant, the case coming on for a hearing and the said claimant having failed to answer, a decree of forfeiture and condemnation, as hereinbelow set out, was rendered and an order was made by the court

that the goods be returned to claimant upon the bond theretofore filed by it in accordance with section 10 of the act.

UNITED STATES OF AMERICA.

The District Court of the United States for the Eastern District of Michigan, Southern Division.

UNITED STATES OF AMERICA *vs.* 6 BARRELS "HONEY."	No. 5189.

Rogers Holloway Company, a corporation organized under the laws of the State of Pennsylvania, and a citizen thereof, by Hunt and Altland, its proctors, comes now into court and acknowledges the misbranding and adulteration of the above-entitled honey as set forth in the amended libel filed in said cause, and consents that the same may be condemned and forfeited to the United States under the provisions of the act of Congress of June 30, 1906, entitled "An act for preventing the manufacture, sale, or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines, or liquors, and for regulating traffic therein, and for other purposes," subject to the right of said claimant to give bond therefor and obtain delivery thereof upon the terms and conditions of section 10 of the above-entitled act of Congress.

Now, therefore, it is hereby ordered, adjudged, and decreed that the said honey be, and the same is hereby, condemned and forfeited to the United States as being misbranded and adulterated within the provisions of the aforesaid act of Congress.

(Signed) HENRY H. SWAN,
District Judge.

JULY 11, 1908.

The following is a statement of facts upon which the case was based: On or about January 24, 1908, an inspector of the Department of Agriculture located in the possession of R. Hurt, jr., Detroit, Mich., a consignment of six barrels of food product bearing the mark "H," inclosed in a design the shape of a diamond, shipped and consigned to that company by the Rogers Holloway Company, of Philadelphia, as a pure, strained honey A sample purchased by an inspector was forthwith subjected to analysis in the Bureau of Chemistry, and the results obtained showed that it contained invert sugar and glucose in a small amount. It appeared that the product was not a pure honey as represented, but was both adulterated and misbranded—adulterated because invert sugar and glucose had been mixed and packed with the honey, thereby reducing and lowering its quality and strength; and misbranded in that it was sold as pure honey.

On January 27, 1908, the facts were reported by the Secretary of Agriculture to the United States attorney at Detroit. Libel for seizure and condemnation of the honey in question was duly filed in the district court of the United States for the eastern district of Michigan, southern division, under section 10 of the act, alleging that

the said honey was adulterated and misbranded. The seizure was forthwith made and notice given to the said claimant to show reason why the honey was not subject to seizure and confiscation by the United States for the causes stated in the libel, and said claimant having failed to answer, the decree, as hereinbefore set forth, was rendered by the court.

H. W. Wiley,
F. L. Dunlap,
Board of Food and Drug Inspection.

Approved:
James Wilson,
Secretary of Agriculture.

Washington, D. C., *August 28, 1908.*

(N. J. 21.)

MISBRANDING AND ADULTERATION OF HONEY.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 11th day of July, 1908, in the district court of the United States for the eastern district of Michigan, southern division, in a proceeding of libel for condemnation of ten cases of adulterated and misbranded honey, wherein the United States were libelants and Rogers Holloway Company, a corporation of Philadelphia, Pa., was claimant, the case coming on for hearing and the said claimant having failed to answer, a decree of forfeiture and condemnation, as hereinbelow set out, was rendered and an order was made by the court that the goods be returned to claimant upon the bond theretofore filed by it in accordance with section 10 of the act.

UNITED STATES OF AMERICA.

The District Court of the United States for the Eastern District of Michigan, Southern Division.

United States of America *vs.* 10 Cases "Honey."	No. 5194.

Rogers Holloway Company, a corporation organized under the laws of the State of Pennsylvania, and a citizen thereof, by Hunt and Altland, its proctors, comes now into court and acknowledges the misbranding and adulteration of the above-entitled honey as set forth in the amended libel filed in said cause, and consents that the same may be condemned and forfeited to the United States under the provisions of the act of Congress of June 30, 1906, entitled "An act for preventing the manufacture, sale, or transportation of adulterated or mis-

branded or poisonous or deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes," subject to the right of said claimant to give bond therefor and obtain delivery thereof upon the terms and conditions of section 10 of the above-entitled act of Congress.

Now therefore, it is hereby ordered, adjudged, and decreed that the said honey be, and the same is, hereby condemned and forfeited to the United States as being misbranded and adulterated within the meaning and provisions of the aforesaid act of Congress.

(Signed) HENRY H. SWAN,
District Judge.

JULY 11, 1908.

The following is a statement of facts upon which the case was based: On or about February 21, 1908, an inspector of the Department of Agriculture found in the possession of F. P. Reynolds & Co., of Detroit, Mich., a consignment of ten cases of food product bearing the mark " H," inclosed in a design the shape of a diamond, shipped and consigned to that company by the Rogers Holloway Company, of Philadelphia, as a pure, strained honey. A sample purchased by an inspector was forthwith subjected to analysis in the Bureau of Chemistry, and the results obtained showed that it contained invert sugar and glucose to a small amount. It appeared that the product was not a pure honey as represented, but was both adulterated and misbranded—adulterated because invert sugar and glucose had been mixed and packed with the honey, thereby reducing and lowering its quality and strength; and misbranded in that it was sold as pure honey.

On February 21, 1908, the facts were reported by the Secretary of Agriculture to the United States attorney at Detroit. Libel for seizure and condemnation of the honey in question was duly filed in the district court of the United States for the eastern district of Michigan, southern division, under section 10 of the act, alleging that the said honey was adulterated and misbranded. The seizure was forthwith made and notice given to the said claimant to show reason why the honey was not subject to seizure and confiscation by the United States for the causes stated in the libel, and said claimant having failed to answer, the decree, as hereinbefore set forth, was rendered by the court.

H. W. WILEY,
F. L. DUNLAP,
Board of Food and Drug Inspection.

Approved:
JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *August 28, 1908.*

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United States Department of Agriculture,

OFFICE OF THE SECRETARY,

BOARD OF FOOD AND DRUG INSPECTION.

NOTICE OF JUDGMENT NOS. 22–24, FOOD AND DRUGS ACT.

22. Misbranding of Eggs.
23. Adulteration and Misbranding of Vinegar (Distilled vinegar artificially colored).
24. Adulteration and Misbranding of Molasses (Admixture of glucose).

(N. J. 22.)

MISBRANDING OF EGGS.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 3d day of June, 1908, in the police court of the District of Columbia, in a criminal prosecution by the United States against Golden & Co., a corporation, for violation of section 2 of the aforesaid act, in the sale and offer for sale in said District of misbranded eggs—that is to say, eggs contained in cases to which were attached labels bearing the statement "Strictly Fresh Eggs"—the said Golden & Co., defendant, entered a plea of guilty, whereupon the court imposed upon it a fine of $75.

The facts in the case were as follows:

On December 19, 1907, an inspector of the Department of Agriculture purchased from the F. Rogerson Company, 920 Louisiana avenue, Washington, D. C., samples of eggs which were contained in crates upon the ends of which were pasted labels bearing the statement "Strictly Fresh Eggs from Golden & Co., 922–928 Louisiana avenue, Washington, D. C." The eggs had been purchased on said date by the Rogerson Company from Golden & Co.

The eggs were forthwith examined in the Bureau of Chemistry of said Department and the result disclosed that they were not fresh; that the albumen in some of the eggs clung to the shell membrane; that the size of the air chamber varied from one-fifth to almost one-half the size of the egg, showing a large amount of evaporation; that minute rosette crystals were in the albumen of each egg, and that large rosette crystals were in the yolk of each egg. The eggs were therefore misbranded within the meaning of section 8 of the act.

On January 28, 1908, the Secretary of Agriculture accorded the parties a hearing. As nothing was disclosed at this hearing tending

to show any fault or error in the result of the aforesaid examination, the facts were duly reported to the Attorney-General and by him to the United States attorney for the District of Columbia, who, on the 29th day of May, 1908, filed an information in the police court of said District alleging the sale of misbranded eggs by said Golden & Co. to the said Rogerson Company, with the result hereinbefore stated.

H. W. Wiley,
F. L. Dunlap,
Geo. P. McCabe,
Board of Food and Drug Inspection.

Approved:
W. L. Moore,
Acting Secretary of Agriculture.
Washington, D. C., *July 15, 1908.*

(N. J. 23.)

ADULTERATION AND MISBRANDING OF VINEGAR.

(Distilled vinegar artificially colored.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 28th day of July, 1908, in the district court of the United States for the western district of Oklahoma in a proceeding of libel for condemnation of adulterated and misbranded vinegar—that is to say, 48 barrels containing 2,256 gallons, more or less, of colored distilled vinegar—wherein the United States was libelant and the Oklahoma Supply Company, a corporation, was claimant, the said claimant having filed its answer and the cause having come on for hearing, a decree of forfeiture and condemnation was rendered in substance and in form as follows:

In the District Court of the United States for the Western District of Oklahoma.

The United States, Libellant, *vs.* 65 Barrels Distilled Vinegar, Colored.	No. 21.

Decree for Condemnation.

Now, to wit, on this 28th day of July, 1908, at a term of said court at Enid, in said district, said cause came on for trial, and it appearing to the court that upon the libel filed herein monition and warrant of arrest was duly issued and served on the 28th day of May, 1908, and that by virtue of the said warrant the marshal has seized and now holds 48 barrels containing, to wit, 2,256 gallons, more or less, of colored distilled vinegar, of the approximate value of $135, the said 48 barrels, with contents, having been seized within the premises and in the possession of the Oklahoma Supply Company, a corporation, at Oklahoma City, within said district, respondent, and now being stored in the custody of the said marshal, and it appearing that the

said Oklahoma Supply Company, a corporation, was duly warned to appear herein on the 28th day of July, 1908, and that due and legal notice and proclamation were given to all persons having or claiming to have any claim, right, or interest therein, or in or to said property, to appear on the said date and answer the said libel, and the said Oklahoma Supply Company, a corporation, having so appeared and filed its answer to the said libel, and the libellant appearing by John Embry, United States attorney for the western district of Oklahoma, and the said Oklahoma Supply Company appearing by its president and secretary and by J. L. Brown, its attorney, a jury is waived and said cause is tried to the court; the libellant and respondent each introduce their evidence and argue said cause and submit same to the court, and the court now being fully advised in the premises finds for the libellant, and finds that the contents of said 48 barrels is colored distilled vinegar, an article of food and an article designed to enter into the composition of food and that the same is adulterated and that the said barrels and contents are misbranded within the meaning of the act of Congress of June 30, 1906, entitled "An act for preventing the manufacture, sale, or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines, liquors, and for regulating traffic therein, and for other purposes," and that same has been transported as vinegar in interstate commerce from the city of Chicago, in the State of Illinois, to Oklahoma City, in the State of Oklahoma, consigned and sold to the Oklahoma Supply Company, a corporation in the western district of Oklahoma, and remains in said district in original unbroken packages, being a part of a consignment of 65 barrels of colored distilled vinegar so adulterated and misbranded and transported in interstate commerce from the Illinois Vinegar Manufacturing Company, in the city of Chicago, in the State of Illinois, to the Oklahoma Supply Company, Oklahoma City, Okla., being all of such consignment found in original, unbroken packages; that is, the court finds that said articles of food are adulterated and are in violation of said act of Congress in that said barrels, and each of them, contain distilled vinegar which is colored in imitation of apple or cider vinegar by addition of burnt sugar thereto, thereby concealing inferiority; and that the said articles of food are misbranded, in that the said barrels, and each of them, contain distilled vinegar, which is an imitation of another article of distinctive name, being colored in imitation of apple or cider vinegar, without being labeled, branded, or tagged so as to plainly indicate that the said food is such imitation and without having the word "Imitation" plainly stated on each of the packages in which said food was so transported in interstate commerce and offered for sale and sold to the Oklahoma Supply Company, the said barrels containing such vinegar having no label or other description except a strip of blue paint or blue marking from 6 to 8 inches wide, placed upon or across the head of each barrel, and together with and stamped upon this blue mark are figures showing the number of gallons contained in each barrel and the figures "112."

Wherefore it is ordered, adjudged, and decreed by the court that the said 48 barrels, with contents as aforesaid, be, and they hereby are, declared to be misbranded and the contents thereof adulterated in violation of the act of June 30, 1906, as charged in the said libel; and it is further ordered that the said 48 barrels, with contents as aforesaid, be, and they hereby are, condemned and ordered to be destroyed as prayed for in the said libel, and as provided for in the said act of June 30, 1906. It is provided, however, that upon the payment of all the costs in the proceeding herein, including all court, clerk's, and marshal's costs, and costs of hauling, storage, watchmen, and all costs incident to or contracted in this proceeding, and the execution and deliverance by the Oklahoma Supply Company, a corporation, to the libellant of a good and sufficient bond in the penalty of $1,000, conditioned that the said 48 barrels, with the contents aforesaid, shall not be sold or otherwise disposed of contrary to the provisions of the said act of June 30, 1906, or the laws of any State, Territory, district, or insular possession, the said marshal shall redeliver the said 48 barrels, with such of their contents as they now contain, or may contain at the time of such redelivery, to the said

Oklahoma Supply Company, a corporation, in lieu of destruction thereof, the said bond to be filed herein, if at all, on or before the 20th day of August, 1908, and that the libellant recover from the Oklahoma Supply Company, a corporation, its costs herein taxed at $———, for which execution shall issue if the costs are not paid as hereinbefore provided, to all of which findings, rulings, and judgment of the court the Oklahoma Supply Company duly excepts and exceptions allowed, and the said Oklahoma Supply Company now files its motion for a new trial, which motion is by the court duly considered and overruled, to which ruling of the court the Oklahoma Supply Company duly excepts and exceptions allowed.

JOHN H. COTTERAL, *Judge.*

The facts in this case are as follows:

On or about May 4, 1908, an inspector of the Department of Agriculture located in the possession of the Oklahoma Supply Company of Oklahoma City, Oklahoma, 65 barrels of distilled vinegar which was consigned to it by the Illinois Vinegar Manufacturing Company, Chicago, Ill., on January 30, 1908. There were no labels or other descriptive matter on the barrels except a strip of blue paint from 6 to 8 inches wide placed upon and across one head of each barrel, and together with a stamp upon this blue mark were figures showing the number of gallons and the number "112."

A sample of the product was analyzed in the Bureau of Chemistry of the Department of Agriculture and the following results were obtained and stated:

Polarization (°V.)	0. 7
Reducing sugars (grams per 100 cc)	. 1040
Solids (grams per 100 cc)	. 370
Ash (grams per 100 cc)	. 0264
Total acids (grams per 100 cc)	10. 83
Fixed acids (grams per 100 cc)	. 01
Volatile acids (grams per 100 cc)	10. 82
Alkalinity of ash (cc N/10 solution per 100 cc)	1. 40
Total phosphoric acid (mg P_2O_5 per 100 cc)	2. 00
Lead number (no precipitate or turbidity with lead acetate)	0. 00
Color removed by fuller's earth (per cent)	82. 00

It was evident that the product was both adulterated and misbranded within the meaning of the act; adulterated for the reason that it was a distilled vinegar colored in imitation of apple or cider vinegar, thereby concealing inferiority; and misbranded because the barrel contained distilled vinegar colored to imitate an article of distinctive name, that is to say, apple or cider vinegar, without being labeled, tagged, or branded so as to plainly indicate that it was an "imitation" and without having that word plainly stated upon each of the barrels.

On May 15, 1908, the facts were reported by the Secretary of Agriculture to the Attorney-General, who referred them to the United States attorney for the Western District of Oklahoma. Libel for seizure and condemnation under section 10 of the act was duly filed in the district court of the United States for the said district. The

case duly came on for trial and the court adjudged the product to be adulterated and misbranded; and upon the filing by claimant of a good and sufficient bond under the provisions of the decree hereinbefore set forth, the goods were released.

H. W. Wiley,
F. L. Dunlap,
Geo. P. McCabe,
Board of Food and Drug Inspection.

Approved:
W. M. Hays,
Acting Secretary of Agriculture.
Washington, D. C., *October 17, 1908.*

(N. J. 24.)

ADULTERATION AND MISBRANDING OF MOLASSES.

(Admixture of glucose.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 29th day of July, 1908, in the district court of the United States for the western division of the western district of Tennessee in a proceeding of libel for condemnation of 139 cases (1,656 cans) of adulterated and misbranded molasses, wherein the United States was libelant and the White, Wilson, Drew Company of New Orleans, La., was claimant, the cause having come on for hearing, and the said claimant having failed to answer, a decree of forfeiture and condemnation was rendered by the court in form and in substance as follows:

United States District Court, Western Division of the Western District of Tennessee.

The United States of America
vs.
1,656 cans of molasses contained in 139 cases.

In this cause it appearing to the court, the United States, by Casey Todd, acting United States attorney, and the White, Wilson, Drew Company of New Orleans, La., the claimants and owners of the property seized herein, by their manager, W. S. McCann, consenting thereto, that under the process issued in this cause, the 1,656 cans of molasses branded "Early Bird Brand Sugar House Molasses, put up for W. C. Early and Company, Memphis, Tenn.," and "Louisiana Sugar House Molasses and Grape Sugar in Solution Mixed," were seized by the United States marshal in the W. C. Early & Co. warehouse, in the city of Memphis, Shelby County, Tenn., and that the same were subject to seizure and confiscation by the United States, for the causes set forth in the libel herein, that is to say, for the reason that said 1,656 cans of molasses contained a large per cent of glucose, which had been substituted in part for the said molasses, and the said brands on the said cans were misleading and calculated to deceive purchasers.

And it further appearing by like consent that the said White, Wilson, Drew Company of New Orleans have agreed that an order may be entered at once, condemning and confiscating the said property to the United States.

It is further ordered, adjudged, and decreed that the said 1,656 cans of molasses above described, now in the possession of the marshal of this court, be and the same are hereby declared to be forfeited and confiscated to the United States.

It is further ordered, however, that upon payment by the said White, Wilson, Drew Company, of New Orleans, of the costs of this proceeding and the execution and delivery of a good and sufficient bond to be filed with the clerk of this court, conditioned that said 1,656 cans of molasses shall not be sold or otherwise disposed of contrary to the provisions of chapter 3915 of the act of the Fifty-ninth Congress, commonly known as the Pure Food and Drug Act, or contrary to the laws of Tennessee, then the marshal of this court is hereby directed to deliver said 1,656 cans of molasses to the White, Wilson, Drew Company, of New Orleans, or to their representative.

But in the event the said White, Wilson, Drew Company, of New Orleans, shall fail to pay the costs of this proceeding, or fail to give the bond as above provided, within fifteen days from the date of entry of this order, then the marshal of this court is hereby directed, after first properly branding said 1,656 cans of molasses, to advertise the same for sale in some newspaper published in the city of Memphis for a period of fifteen days and sell the same on the premises of the W. C. Early Company warehouse in Memphis, Tenn., for cash to the highest bidder.

(Signed) O. K. Casey Todd,
Acting U. S. Attorney.

O. K. W. S. McCann,
For White, Wilson, Drew Co.

Enter this.

McCall, *J.*

The facts of the case were as follows:

On or about July 17, 1908, an inspector of the Department of Agriculture found in the possession of the W. C. Early Company, Memphis, Tenn., 139 cases containing 1,656 cans of a product, each can being branded "Early Bird Brand Sugar House Molasses, put up for W. C. Early Company, Memphis, Tennessee." On another part of the label appeared the statement "Louisiana Sugar House Molasses and Grape Sugar, in Solution Mixed." The goods were shipped from New Orleans to the W. C. Early Company by the White, Wilson, Drew Company on October 28, 1907, January 15, 18, and July 5, 1908. A sample of the product was procured and analyzed in the Bureau of Chemistry, Department of Agriculture, and the following results obtained and stated:

Polarization at 20° C.:	
Direct (°V.)	+78.0
Invert (°V.)	+39.0
Polarization at 86° C.:	
Invert (°V.)	+50.0
Sucrose (per cent)	29.3
Glucose (per cent)	27.8
Dextrin (per cent)	4.0

It was evident that the product was adulterated within the meaning of section 7 of the act, in that glucose had been substituted in part for molasses, thereby reducing its quality and strength, and that it was misbranded under section 8 of the act, for the reason that the label represented the content of the cans to be molasses containing a solution of grape sugar, while, as a matter of fact, the product was a mixture of molasses and glucose.

On July 20, 1908, the facts were reported by the Secretary of Agriculture to the United States attorney for the Western District of Tennessee, and libel for seizure and condemnation under section 10 of the act was duly filed. On the 23d day of July the said White, Wilson, Drew Company, claimant, appeared, waived the publication of monition and consented to entry of an order condemning and confiscating the molasses to the United States, whereupon the court adjudged the molasses adulterated and misbranded, and upon the filing by claimant of a good and sufficient bond, in accordance with section 10 of the act and under the provisions of the decree hereinbefore set forth, the goods were released.

H. W. Wiley,
F. L. Dunlap,
Geo. P. McCabe,
Board of Food and Drug Inspection.

Approved:
W. M. Hays,
Acting Secretary of Agriculture.

Washington, D. C., *October 17, 1908.*

O

United States Department of Agriculture,

OFFICE OF THE SECRETARY,

BOARD OF FOOD AND DRUG INSPECTION.

NOTICE OF JUDGMENT NO. 25, FOOD AND DRUGS ACT.

MISBRANDING OF A DRUG.

(Harper's Cuforhedake Brane Fude or Cuforhedake Brain Food.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court, as hereinafter set forth, in the case of the United States against Robert N. Harper for violation of sections 1 and 2 of the aforesaid act, lately pending in the Police Court of the District of Columbia.

On August 27, 1907, an inspector of the Department of Agriculture purchased from a firm of retail druggists in Washington, D. C., samples of a preparation contained in bottles encased in cartons, upon the principal side of each of which was printed the following:

HARPER'S CUFORHEDAKE BRANE-FUDE.

Read inner circular.

Guaranteed under the Food and Drug Act,
June 30, 1906. No. 6707.

Each Oz. contains 30% alcohol and 16 grs.
acetanilid.

A positive relief for Headache, Neuralgia,
Nervousness, Insomnia, &c.

It is taken in doses of two teaspoonfuls in a little water and repeated in 20 or 30 minutes if not relieved, and again in 30 minutes after the second dose, if that should not give the desired effect.

For insomnia, two teaspoonfuls at bed time; for nervousness, two teaspoonfuls every 2 or 3 hours.

Price, 25 Cents.
Manufactured by
ROBERT N. HARPER,
Laboratory and Office,
467 C Street N. W.,
Washington, D. C.

60293—08

The bottles were similarly labeled and the words "Harper's Cuforhedake Brain Food, Washington, D. C.," were blown in the glass. A folded circular inclosed with each bottle contained, among other things, the following statements:

"A most wonderful, certain and harmless relief," and "The rapidity by which it cures and the after effects being pleasant and without any depression whatever, containing no morphine or poisonous ingredients of any kind, is, I think, sufficient guarantee of its superior qualities."

The preparation was duly analyzed in the Bureau of Chemistry of the Department of Agriculture, and it was found that it consisted of the following ingredients:

Alcohol (per cent by volume)	24.2
Acetanilid (grains per ounce)	15.0
Caffein (per cent)	1.5
Antipyrin (per cent)	1.0

Potassium, sodium, and bromids also present.

After comparison of this analysis with the aforesaid labels and statements, the Secretary of Agriculture was of the opinion that the preparation was misbranded within the meaning of section 8 of the Food and Drugs Act of June 30, 1906. Accordingly, on October 17, 1907, in pursuance of the provisions of section 4 of the act, he afforded the dealers from whom the samples were purchased a hearing at the Bureau of Chemistry of the Department. The manufacturer and vendor of the preparation, Robert N. Harper, also appeared and participated in the hearing. As no evidence was produced tending to show fault or error in the aforesaid analysis, the Secretary reported the facts to the Attorney-General. The facts were duly referred to the United States Attorney for the District of Columbia, who, on January 14, 1908, filed an information in the Police Court of the District of Columbia against Robert N. Harper, alleging the manufacture and sale by him in the District of Columbia of a misbranded drug, contained in bottles and cartons and accompanied by circulars upon and in which were blown and printed certain false and misleading statements regarding it, that is to say: That the said drug was a "Cuforhedake Brane-Fude" or "Cuforhedake Brain Food;" that said drug contained no poisonous ingredients of any kind; that said drug was a harmless relief; and that each ounce thereof contained 30 per cent of alcohol.

The defendant having entered a plea of not guilty, the case was duly submitted to a jury upon testimony, argument of counsel, and the following instructions of the court:

Ivory G. Kimball, *Judge.*

Gentlemen of the jury: I want to congratulate you upon your arrival at the last stage of this very long, but very interesting and important case. As was stated by Mr. Baker, the United States District Attorney, it is the first case under the Pure Food

Law in any court in the country, and it is one that may, in its final results, test many questions that are raised by the law and necessary to its proper administration, which questions must be finally settled by the courts.

The act known as the Pure Food Law was passed on the 30th of June, 1906, but did not go into effect, as far as this case is concerned, until the 1st of January, 1907, thus giving to manufacturers a chance of changing their labels and packages, if they found it necessary to do so, and giving opportunity to dealers to get rid of any drug that might come under the purview of the law. So that in this case, as you have noticed in the prayers, the date is given to you as from January 1, 1907, up to the date of the filing of this information.

The information as originally filed had four counts, but the Government has abandoned the second and third; and, therefore, in your deliberations you will take no account of the second and third counts, but will confine yourselves to the first and fourth.

The first count relates to the manufacture of a misbranded drug; the fourth count relates to the sale of such a misbranded drug.

There was no law on this subject before the passage of this act. So that up to the 1st day of January, 1907, this drug might have been legally branded as the Government claims it was branded after that date; but from the 1st day of January, 1907, the law of June 30, 1906, went into effect, and is effective upon all manufacturers coming within its purview.

The first section of this information charges that the defendant, Robert N. Harper, manufactured a drug which was misbranded; and to fully inform you as to what is meant by the law by "misbranded," I will state what the law requires, because the law uses the word "misbranding" and then defines it, and the court and jury are bound by the definition of misbranding as laid down in the law. The term applies to all drugs or articles of food, or articles which enter into the composition of food, "the package or label of which shall bear any statement, design, or device regarding such article or the ingredients or substances contained therein which shall be false or misleading in any particular."

You will notice how broad the law is in its definition. If it is found from the evidence that in any particular this drug known as "Harper's Cuforhedake" misstates or states falsely, then the law has been violated. It is not necessary that each one and all of them have been broken, but the law says "in any particular." So that if you find from the evidence that in any one point there has been a misbranding under the definition which I have read to you then you shall find a verdict of guilty.

I might say here that there are several items in this first count which, before entering upon the trial, Mr. Baker, on behalf of the Government, abandoned. So, in considering this, you will only take into account the items that I shall name, they being the only items on account of which Mr. Baker says the law was violated.

The first claim that he made is that said drug was not a cure for headache, nor a food for the brain, and I want to read in that connection, because the words "Cure" and "Brain Food" have been referred to by each one of the counsel who has appeared before you, the prayer that I have granted as to the meaning of those words:

"The jury are instructed that in determining the meaning of the words 'brain-food,' 'cure,' 'poisonous,' and 'harmless,' the definition of which has been called into question by this inquiry, they are to give such words their ordinary and customary meaning as understood by the general public and not a technical meaning as given by any expert witness."

This law was passed not to protect experts especially, not to protect scientific men who know the meaning and the value of drugs, but for the purpose of protecting ordinary citizens, like the jury and like counsel and others, who have learned during the hearing of this trial a great deal more about these things than they ever knew before in all their life.

In determining the meaning of the words used upon these cartons, bottles, and circulars, they are to be taken in the way that an ordinary, plain, common citizen, without scientific knowledge, would understand them if they were put before him.

And so with regard to this "Cuforhedake," you can take it to mean what an ordinary man would take it to mean—the meaning which it conveys to an ordinary person when he gets a remedy said to be a cure for headache. The first prayer as presented to me on the part of the Government touches that subject. I do not know that it is necessary for me to read it to you again. It has been read three times. If that word, spelled in the two different ways that it is spelled, would convey to the ordinary citizen the idea that it was a food for the brain as contradistinguished from the idea of a food for the whole body, then it is—and I so charge you in this first prayer—misleading, and therefore a violation of the law; and if you find that such a definition is what the ordinary citizen would apply to it, then you, under that first prayer, would be compelled to bring in a verdict of guilty, and you have the right, in considering that question, to take it in the connection in which it is placed. You have the right to consider that it is on a medicine which it is claimed is a cure for headache, an ache which is supposed by most citizens to be from the brain, and the words brain food spelled in the two different ways you have had demonstrated to you so many times are used in connection with a cure which is said to cure the headache—an ache that is seated in the head. You have a right to consider all that. How would an ordinary citizen, in taking that up and seeing these words, understand it? What would he understand by the use of those words?

I have granted some other prayers where the subject of brain food is referred to.

Mr. Baker. If your Honor please, when you read the other ones, will you spell out the words?

The Court. The jury are further instructed that if they find from the evidence that the use by the defendant of the name "branefude" as a part of the name of the defendant's preparation was not reasonably or fairly calculated to deceive or lead to the belief that the preparation was a food for the brain, then they shall find that the use by the defendant of the word "branefude" was not false or misleading. That is the question that I suggested to you a moment ago. How would the ordinary citizen, upon reading that, understand it? If it would mislead him or have a tendency to mislead him, then the case is made out. If there is nothing in the term in the way in which it is used that would mislead an ordinary citizen, then, of course, that, under the prayers that I have granted, is to be taken into consideration by you.

Mr. Baker. Would your Honor read that first prayer now?

The Court. I will read, at the request of counsel, the first prayer:

"If the jury find from the evidence beyond a reasonable doubt (and you gentlemen are old jurors and understand perfectly well what is meant by a reasonable doubt. I need not again charge you on that point, because you have had that charge over and over again. The doubt must be a reasonable one—one that a reasonable man would entertain from the evidence), that the defendant Robert N. Harper, on the fifth day of August, 1907, or at any time between the first day of January, 1907, and the date of the filing of this information, in the District of Columbia, did manufacture a certain liquid medicine or preparation, styled and designated 'Harper's Cuforhedake Brain Food,' or 'Harper's Cuforhedake Brane Fude,' and did place on the bottle, box, or circular thereof the following statements, designs, and devices, or any of them, viz, 'Cuforhedake Brain Food' or 'Cuforhedake Brane Fude,' unless you further find from the evidence that there is a known and distinct kind of food that feeds and nourishes the brain as distinguished from a food that feeds and nourishes the whole body, and that the said drug or preparation is a food, and that it feeds and nourishes the brain particularly, as distinguished from a food that nourishes all parts of the body, then the jury are instructed as a matter of law that the words

'Brain Food' and 'Brane Fude'—if you find that 'Brane Fude' means brain food—are false and misleading, and your verdict shall be guilty on the first count of the information; and if the jury further find that the defendant did sell or offer for sale to the said Stone & Poole, on the date or within the time mentioned and in the District of Columbia, the said drug in this prayer described, they shall find the defendant guilty on the fourth count of the information."

The next objection that is made in this information is "nor did said drug contain any poisonous ingredients of any kinds."

Gentlemen, the question raised is not whether it is a poison in the doses prescribed in the preparation. That is not the question before you as jurors. You have nothing to do with the question of whether it is poisonous in the doses prescribed or in larger doses. The sole question raised here for you to consider is whether the said drug contains poisonous ingredients of any kind. If you find from the evidence, beyond a reasonable doubt, that it did contain poisonous ingredients, whether taken in the doses named, whether they would or would not be harmful—if you find that the drug contained a poisonous ingredient—then your verdict must be guilty, because that is the plain issue. Of course, that you must find beyond a reasonable doubt.

The next point is: "Nor was said drug a harmless relief." I do not need to say anything in particular upon that point. That has been fully argued by counsel, and I can not go into the evidence. It is a question for you. Of course, if you find, beyond a reasonable doubt, any one of these points against the defendant, then your verdict must be guilty, whatever you may do with the others, because the law provides "in any particular." Now, I will say nothing further with regard to the "harmless relief" than to refer you to the evidence, which is in your own minds. I can not tell you what the evidence is. You have the right to carefully consider it, and it is your duty to carefully consider all the evidence bearing upon the point, and to determine beyond a reasonable doubt whether, in your judgment as jurors, the case has been made out by the Government beyond that reasonable doubt. If it has been made out that it is a harmful relief and not a harmless one, then of course your verdict must be guilty. If you do not so find upon that point, your verdict would be in favor of the defendant upon that point.

The next one is: "Nor did each ounce of said drug contain 30 per cent of alcohol." I do not think I need to say anything upon that point. The evidence you know. You know the evidence of the two who analyzed it, and you know what they said. I will merely read the prayer that was granted on that subject.

"If the jury shall find from the evidence that the defendant's preparation in question contained 30 per cent of alcohol at the time of the manufacture and sale thereof, then they should find that he did not make a false or misleading statement as to the quantity or proportion of alcohol contained therein."

In this prayer the jury are instructed that, under the law the defendant had the right to use in the manufacture of preparations common alcohol, which is considered to be a little more than 5 per cent water and a little more than 94 per cent pure alcohol; that is to say, alcohol composed of 94.9 per cent pure alcohol and 5.1 per cent water; and in determining whether the statements on his carton and label regarding the quantity of proportion of alcohol contained in his preparation were either true or false, the jury shall consider that 5.1 per cent of the alcohol he used, if they shall find he used common alcohol, was composed of water.

I think that those two prayers contain all that I need say upon that question. You understand the evidence.

There is one other prayer on the subject of alcohol. I will read that:

"If the jury shall find from the evidence that the statement on the carton and label of the defendant's preparation concerning the quantity or proportion of the

alcohol contained in such preparation was a true statement of the maximum or the average quantity or proportion of the alcohol contained in his preparation, such statement was in conformity with the law, and his carton and label was not misbranded so far as such statement was concerned."

These three prayers cover all that is necessary for me to say on that point.

I will read the other prayers granted, first taking up prayer No. 2 for the Government:

"The jury are instructed as matter of law that if they find from the evidence beyond a reasonable doubt that the defendant, Robert N. Harper, on the fifth day of August, 1907, or at any time between the first day of January, 1907, and the filing of this information, in the District of Columbia, did manufacture a certain liquid medicine or preparation, styled and designated 'Harper's Cuforhedake Brain Food,' or 'Harper's Cuforhedake Brane Fude,' and did on the bottle, box, or circular thereof place the following statements, designs, and devices, or any one of them, 'Cuforhedake Brane Fude,' or 'Cuforhedake Brain Food,' 'that said drug contained no poisonous ingredients of any kind;' 'that said drug was a harmless relief;' 'that each ounce of said drug contained 30 per cent of alcohol;' and if the jury find beyond a reasonable doubt that the word 'Cuforhedake' means cure for headache, and that the said drug is not a cure for headache, or that said drug contains poisonous ingredients of any kind, or that said drug was not a harmless relief, or that each ounce of said drug did not contain as the maximum quantity 30 per cent of alcohol, or that all or any of said statements were in any way false or misleading, then they shall find the defendant guilty as charged in the first count of the information; and if they further find that the said defendant, Harper, did sell and offer for sale, on the day and days aforesaid, the said drug to Frank T. Stone and S. Stuart Poole, then they shall find the defendant guilty on the fourth count of said information."

The fourth count, I believe, is a charge of selling. One charge is for making in the District of Columbia, and the other charge is for selling a misbranded article in the District of Columbia. The two are to be considered separately. If you believe that he sold a misbranded article then you will bring a verdict on the fourth count. If you believe that he misbranded in any of the ways claimed by the Government, beyond a reasonable doubt, then you shall bring in a verdict of guilty on the first count.

There is one other prayer for the Government:

"A false statement within the meaning of the act of June 30, 1906, is any statement that is untrue, erroneous, not strictly in accordance with fact, or calculated in any way to deceive; a misleading statement within the meaning of said act is any statement that may in any way tend to lead a person wrongly, or misguide, or lead astray or into error, or cause to mistake, or delude or deceive; and if the jury find that any of the statements charged as false or misleading in respect to said drug, from any point of view, or from any aspect considered, may in any way reasonably be considered untrue, or not strictly in accordance with fact, or calculated in any way to deceive, or lead into error, or cause to mistake or be deceived, then the jury should find that such statement or statements are false or misleading, and that said drug is misbranded."

In considering the expert testimony, a prayer was prepared, which was also read, but I will read it again:

"The jury are instructed that the evidence of the expert witnesses who have testified in this case is to be received and treated by them precisely as other testimony. The weight to be given to it by the jury is to be determined by the character, the capacity, the skill and experience, the opportunities for observation, and the state of mind of the experts themselves, as seen and heard and estimated by the jury, by the nature of the case, and all its developed facts."

In other words, I charge you, in substance, that in testing the evidence of experts you have the right to consider whether they have shown sufficient knowledge, and to consider their conduct upon the witness stand, everything about them that has occurred in your sight, and everything that they have given upon the witness stand, for you are the ones to determine the weight to be given to the testimony of experts or those who come to testify as experts.

The law presumes that a person charged with a crime is innocent until he is proved by competent evidence to be guilty. To the benefit of this presumption the defendant is entitled, and this presumption stands as his sufficient protection, unless it has been removed by evidence proving his guilt beyond a reasonable doubt. That, you gentlemen understand, has been charged you over and over again. The right of a defendant in a court of law in this country is that he stands before you as innocent until he is proven by competent evidence guilty beyond a reasonable doubt.

Here is another prayer granted for the defense:

"The jury are instructed that under the act under which this information is filed the defendant is not required to state on the label or package containing the preparation in question any of the ingredients contained therein except the quantities or proportions of acetanilid and alcohol."

Whilst that is true, yet the statement upon the label of the proportion of those two ingredients, if there are other statements upon the carton or label, or other document a part of the carton, which are false and misleading, the fact of the statement of the two drugs would not take away the character of the misleading statements. For instance, the ordinary purchaser of such drugs at a drug store does not know the value or the effect of these several drugs, and if there is put upon the outside of the package the quantity of this drug, and at the same time a statement that there are no harmful ingredients in it, or no poisonous ingredients in it, the fact that the label would show that there was a poisonous or harmful ingredient in it, if such were the fact, would not remove the liability to a penalty under this law, because it is the ordinary purchaser that we are dealing with. The ordinary purchaser does not know, except in some few instances of well-known poisons, the nature of the various ingredients going into drugs. If there is that which is false or misleading upon any part of that which is sold accompanying the drug, he would be liable under the provisions of this act.

Here is a prayer granted to the defense which is somewhat on that line:

"The jury are instructed that the purpose of the act of June 30, 1906, was to prevent the public from being deceived or misled in the purchase of drugs, and that the defendant can not be found guilty of misbranding his preparation unless on the label, bottle, or package of his drug he made any false statements or such statements concerning the same as would naturally and reasonably deceive or mislead or tend to deceive or mislead."

The jury are further instructed that in order to convict the defendant in this case of the offenses charged in the information, or either of them, they must believe and find beyond a reasonable doubt that all or some one of the alleged false or misleading statements are or is false or misleading in some particular.

Another prayer:

"The jury are instructed that the burden of proof in this case is upon the prosecution, and before they can find the defendant guilty the evidence adduced must satisfy them beyond a reasonable doubt that the statements contained on the label or package of the defendant's preparation or the printed matter connected therewith or some one or more of said statements was or were false or is misleading."

That covers all the prayers.

Gentlemen, in considering this case, you do not want to take into consideration the position or standing of the defendant. Everyone that appears before the bar of this

Court stands on an equal plane, as far as the verdict of the jury is concerned. We are not trying Mr. Harper, the president of the American National Bank, or Mr. Harper, the president of the Chamber of Commerce; but we are trying here Robert N. Harper, a citizen of the District, and you gentlemen are sworn to try the case, standing between the defendant on one side and the United States on the other.

You have nothing to do with the question, as counsel have told you, of the penalty. You are here to determine the plain questions of fact that are presented.

If you find any one of the charges brought by the Government in the first count against Mr. Harper, although you may find him not guilty on all the others, any one of them would be sufficient and would require you to bring in your verdict of guilty, because if he is guilty beyond a reasonable doubt upon any one of the charges of false or misleading statements coming under the word "misbranded," then he is guilty, because the law requires that when a man puts out to the general public a drug he shall put on that no statement, he shall put on that no label which is false or misleading in any particular. If you find that this has been done, that there is a false or misleading statement in any particular upon this preparation put out by Mr. Harper, then your verdict must be "Guilty."

If, however, you find that in no one of the points named has Mr. Harper made a statement which is false or misleading, then, of course, your verdict would be in favor of Mr. Harper and would be "Not guilty."

If you find him guilty upon the first count and find that he sold this article to the firm of Stone & Poole, then you would find him, in that connection, guilty on the fourth count. If, however, you find him not guilty on the first count, you must necessarily find him not guilty on the fourth count.

Mr. Tucker. Has your Honor concluded?

The Court. Yes; unless there is something that counsel wants me to say further.

Mr. Tucker. What I want to say is this: Under the rule established by the Court of Appeals, where instructions are repeated in the charge of the Court, it is necessary for the parties to reserve their exceptions again to the prayers, repeating their exceptions. I accordingly except, for the reasons I have stated, to the granting of each and every of the prayers granted on behalf of the prosecution, and to the refusal of the Court to grant each and every of the prayers presented on behalf of the defense and refused, and to the modification of the Court to such of the defendant's prayers as have been modified by the Court; all on the grounds I have stated.

The Court. There was only one, I think.

Mr. Tucker. Only one, I think. I simply put it in the plural to cover any possibility.

I also object and reserve an exception to the language of the Court in the charge relating to the subject of dosage, and in instructing the jury, in effect, that they should disregard the dosage as prescribed on the label of the defendant's bottle.

I also object and except to such part of the charge as stated to the jury that the ordinary purchaser does not know the nature of the ingredients in drugs, as a rule, on the ground that that is a matter for determination by the jury.

The Court. Gentlemen, take the case.

On March 12, 1908, the jury returned a verdict of guilty. On April 15, 1908, the court pronounced judgment and sentence upon the verdict as follows:

The Court. Gentlemen, I shall do in this case what I do not ordinarily do in a case which has been tried by a jury, and where the jury has found the defendant guilty, and that is, give reasons why I impose the sentence which I have determined to impose.

Before any controversy occurred in the newspapers, or in any other way, whilst the evidence and the facts in this case were very fresh in my mind, I studied over the

question of the penalty that I ought to impose and made up my mind what that penalty ought to be. I see nothing in the evidence in the case at this time which ought to make me change the deliberate judgment which I formed at the time, after the verdict of the jury; and I shall carry out in my judgment the opinion I then formed for myself.

The penalty imposed upon a person found guilty of the violation of a law is for three purposes: First, as a punishment for committing the offense; secondly, to accomplish the reformation of the guilty party; and third, to deter others from committing the same offense.

In this case, as to the first point, what is, as a matter of right and justice between the United States on one side and the defendant on the other, a proper punishment for the offense committed?

The defendant is a druggist—an expert. He has appeared in this Court, in other cases, as such expert, testifying as to the effect and about the character of drugs. According to his own testimony, he is thoroughly qualified for giving such evidence. To be sure, for many years he had prepared and sold this preparation. It is true that up to the 1st of January of last year there was no law, as far as the Court is advised, which would hinder him from making, selling, and branding the preparation as he did. Whether that law to which Mr. Baker referred would, or not, I am not advised. This law, under which this case was brought, was passed on the 30th of June, 1906. It went into effect six months afterwards, thus giving all parties an opportunity for changing their labels and their other printed matter, if their preparation was in any way misbranded. The law went into effect on the 1st day of January, 1907.

According to the evidence here, the defendant made no change in the complained-of matter until this preparation was purchased by the Government in August, eight months afterwards. He did not consult counsel until October, ten months afterwards; but, according to the evidence, during all those months he continued to make and to sell this preparation and, according to the testimony of the many druggists who appeared in court, to sell in very large quantities. They purchased it from him in greater or less quantities; usually weekly.

During all of that period until October, the complained-of labels were on the packages as sold. One of the complained-of labels was the "Cuforhedake Brane Fude." As to the word "Cure," as counsel know, I was with the defense on that question. The other one, "Brane Fude," and the other, also, that "this preparation contains no poisonous ingredients" and that it was "a harmless preparation" were, in my judgment then, as now, a misbranding of this drug.

Whether or not it did contain poisonous ingredients Mr. Harper, an expert, knew. He could not have been mistaken. It did not require any advice from Professor Wiley, or from the Agricultural Department, to inform him, for many years an expert druggist, what was testified to by so many witnesses—that this did contain poisonous ingredients.

It was not, in my judgment, and as I charged the jury, a question of dosage. The question was, Did it contain a poisonous ingredient, and was that a misbranding under the law? If it was, Mr. Harper must have known it; and he went on for ten months selling it with that misbranded, misleading statement on it. As to this, the witnesses for the defense, and among others Professor Hurd, the chemist, said more than once that the ingredients were poisonous ingredients; although they testified that, in the doses prescribed, it would not harm. Yet here, upon his papers, and upon every bottle sold, was the statement, "This preparation contains no poisonous ingredients." It did not say that it would not be poisonous in the doses named. It did not say that there would be no harmful effects from the number of doses taken as prescribed; but it was an absolute statement which would tend to mislead an unprofessional person who might read that statement.

Now, the offense, it seems to me, is a serious one because Mr. Harper must have known this. He could not help but know that these statements were misleading, were not true, and that the bottles did contain a poisonous ingredient. I therefore can not agree with counsel for the defendant that this was an accidental or, you may put it, an unintentional, technical violation of the law.

Now, with regard to these visits to the Agricultural Department. The Agricultural Department and its officers were right in refusing to construe the law. They were not a court. They were not, I assume, lawyers; and the matter was one for a court, and for the man who was himself manufacturing the drug, to determine whether or not the labels that he put upon the package were or were not misleading under the language of the law; and it was for the courts to determine, afterwards, what the statute meant and how it was to be construed. So with regard to that I can not concede that Mr. Harper is an innocent violator; a technical violator. He went on for eight months selling his bottles by the thousands, to everybody, with those misleading statements upon them; and it was only after the Government sent the notice from the Agricultural Department in October that he consulted counsel and changed his label.

Now, concerning reformation. I do not think there is any need for my saying anything about that. I do not believe that Mr. Harper from this time on will put onto his labels or onto his bottles any such misleading statements. I think that that purpose of the law has been accomplished.

As to the deterrent effect upon others. I happen to know that during the whole of this trial there was one, and possibly there were more, counsel from abroad in court, watching this case, having no part in it in any way. He was representing the Wholesale Drug Association, and he told me that his purpose was to notify the druggists in every part of the United States of the action of the Court and of the charge made by the Court upon the law, so that everyone would be instructed upon the law. I therefore believe, with counsel for the defense, that as far as the general public is concerned and as far as the druggists are concerned, there has been full notice, and that they will be exceedingly careful as to violating this law in the future.

With regard to this case being a test case, I merely want to say one word. It does not strike me as having been a test case in the sense in which that word is usually used. A test case is one where there is a doubt about the meaning of the law, and counsel for the Government and counsel for the defense get together to test the question, so that the courts may determine the law. I do not think that anything of that kind occurred in this case. The defendant was, after notice from the Agricultural Department, brought into Court under this information. There was not a thing that would bring it within the ordinary meaning of a "test" case.

Now, coming back to the question of what the punishment should be. I do not think, this being the first case under the law, and Mr. Harper having shown a willingness to change his label, although it was after October and after he had gone once or twice to the Department before January—I do not think that I ought to impose a jail sentence.

This is the first case under this law. It is, in one sense, a test case, in that the law is for the first time construed by a court and a rule laid down which, if sustained by the Court of Appeals, will be the rule throughout the United States.

Therefore I think that the penalty imposed upon Mr. Harper should be the maximum money penalty. That is what I determined, as I said, immediately after the trial of the case and the verdict of the jury.

I shall therefore sentence the defendant, on the first count, to pay a fine of $500, and in default to be imprisoned for ninety days in jail; on the fourth count to pay a fine of $200, and in default to be imprisoned for sixty days in jail, to take effect upon the expiration of imprisonment in jail under sentence imposed on first count.

Motions by the defendant in arrest of judgment and for a new trial were severally made and overruled, and notice was given of appeal to the Court of Appeals of the District of Columbia. Subsequently the appeal was withdrawn and the fine paid.

H. W. WILEY,
F. L. DUNLAP,
GEO. P. MCCABE,
Board of Food and Drug Inspection.

Approved:
WILLIS L. MOORE,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *October 14, 1908.*

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United States Department of Agriculture,

OFFICE OF THE SECRETARY,

BOARD OF FOOD AND DRUG INSPECTION.

NOTICE OF JUDGMENT NOS. 26-27, FOOD AND DRUGS ACT.

(N. J. 26.)

MISBRANDING OF CANNED BLACKBERRIES.

(UNDERWEIGHT.)

In accordance with the provisions of section 4 of the food and drugs act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 11th day of September, 1908, in the District Court of the United States for the Western District of Oklahoma, in a prosecution by the United States against J. W. Ogburn, a member of the firm of J. S. Ogburn & Company, Lindale, Texas, for violation of section 2 of the aforesaid act, in shipping from Texas to Oklahoma and thereafter delivering to another in original packages, canned blackberries, misbranded as to weight, the said J. W. Ogburn entered a plea of guilty, whereupon the court imposed upon him a fine of one hundred dollars.

The facts in the case are as follows:

On July 29, 1908, an inspector of the Department of Agriculture collected from a consignment of canned blackberries in the custody of the Ridenour-Baker Mercantile Company, Oklahoma City, Oklahoma, 6 cans which were contained in a shipping case bearing the label "Lindale Brand, 2 lb. Blackberries, Packed by J. S. Ogburn & Company, Lindale, Texas." The samples were a part of a consignment of 800 cases shipped to the Ridenour-Baker Mercantile Company by J. S. Ogburn & Company, Lindale, Texas, on June 15, 1908, and seized on July 28, 1908, by the United States marshal under proceedings for forfeiture and condemnation.

The samples were weighed in the Bureau of Chemistry, and the following results obtained and stated:

Can No.	Ounces.
1	23
2	23
3	23.25
4	24
5	23
6	23

As the average gross weight of each can was found to be less than 1 pound 8 ounces, and the claim was made on the label that each can weighed 2 pounds, the goods were misbranded. The United States attorney for the western district of Oklahoma filed an information against J. W. Ogburn for the aforesaid offense, with the result hereinbefore stated.

H. W. Wiley,
F. L. Dunlap,
Geo. P. McCabe,
Board of Food and Drug Inspection.

Approved:
W. M. Hays,
Acting Secretary of Agriculture.

Washington, D. C., *November 2, 1908.*

(N. J. 27.)

MISBRANDING OF CANNED BLACKBERRIES.

(UNDERWEIGHT.)

In accordance with the provisions of section 4 of the food and drugs act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 11th day of September, 1908, in the District Court of the United States for the Western District of Oklahoma, in a proceeding of libel for condemnation of 800 cases of canned blackberries, misbranded as to weight, wherein the United States was libelant and J. S. Ogburn & Company of Lindale, Tex., were claimants, the said claimants having filed their answer, and the cause having come on for a hearing, a decree of forfeiture and condemnation was rendered in substance and in form as follows:

In the District Court of the United States for the Western District of Oklahoma.

The United States, *Libelant*, *vs.* Eight Hundred Cases of Blackberries.	No. 38. Decree of condemnation.

Now, to wit, on the 11th day of September, 1908, at a term of said court, at Enid, in said district, said cause came on for trial, and it appearing to the court that upon the libel filed herein monition and warrant of arrest was duly issued and served on the 28th day of July, 1908, and that by virtue of said warrant the marshal has seized and now holds eight hundred cases of blackberries of the approximate value of $1,000, containing two dozen cans to the case, the said eight hundred cases of blackberries with contents having been seized within the premises and in the possession of the Ridenour-Baker Mercantile Company, a corporation of Oklahoma City, within said district, and now being stored in the custody of the said marshal, and it appearing that J. S. Ogburn & Company, of Lindale, Tex., a copartnership composed of J. S. and J. W. Ogburn, the respondent herein, the owners of said eight hundred cases of blackberries, were duly warned to appear herein on the 7th day of September, 1908, and that due and legal notice and proclamation were given to all persons having or claiming to have any claim, right, or interest therein, or in or to said property, to appear

on the same date and answer the said libel, and the said J. S. Ogburn & Company having so appeared by J. W. Ogburn, one of the partners, and filed their answer to the said libel and the libelant appearing by John Embry, United States attorney for the western district of Oklahoma, and the said J. S. Ogburn & Company appearing by the said J. W. Ogburn, a member of the partnership, in person, and by McKeever & Walker, its attorneys, a jury is waived and the said cause is tried to the court; the libelant and respondent each making a statement to the court of their evidence and agreeing in open court as to what the facts are in this case, and upon said agreement in open court submit the same to the court, and the court now being fully advised in the premises finds for the libelant, and finds that the contents of the said eight hundred cases contain blackberries of two dozen cans each, an article of food, and that the said cases are misbranded within the meaning of the act of Congress of June 30, 1906, entitled "An act for preventing the manufacture, sale, or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines, liquors, and for regulating traffic therein, and for other purposes," and that the same has been transported as blackberries in interstate commerce from the city of Lindale, in the State of Texas, to Oklahoma City, in the State of Oklahoma, consigned to the Ridenour-Baker Mercantile Company, a corporation, of Oklahoma City, Okla., being all of such consignment found in original, unbroken packages; that is, the court finds that said articles of food are misbranded and are in violation of said act of Congress in that said cases and each of them contain less in weight than the amount as shown by the brands thereon; and that the said articles of food were so transported in interstate commerce and consigned and delivered to the Ridenour-Baker Mercantile Company, aforesaid, wholesale dealers.

The court further finds that the article of food contained in the said eight hundred cases is not adulterated, poisonous, or deleterious, but that the violation of said act of Congress is in the misbranding of said cases as to the quantity contained in each case and that the same were consigned only to a wholesale dealer and not sold to the public for consumption.

Wherefore, it is ordered, adjudged, and decreed by the court that the said eight hundred cases of blackberries with the contents as aforesaid be, and they hereby are, declared to be misbranded in violation of the act of June 30, 1906, as charged in said libel, and it is further ordered that the said eight hundred cases of blackberries with the contents as aforesaid be, and they hereby are, condemned and forfeited, as provided for in the said act of June 30, 1906. It is provided, however, that upon the payment of all the costs in the proceeding herein, including all court, clerks, and marshal costs and costs of hauling, storage, watchmen, and all other costs incident to or contracted in this proceeding, and the execution and delivery by the said J. S. Ogburn & Company, a co-partnership, to the libelant of a good and sufficient bond in the penalty of five hundred dollars, conditioned that the said eight hundred cases of blackberries with the contents as aforesaid shall not be sold or otherwise disposed of contrary to the provisions of the said act of June 30, 1906, or to the laws of any State, Territory, district or insular possession, that said marshal shall redeliver the said eight hundred cases of blackberries with such of their contents as they now contain, or may contain at the time of such redelivery, to the J. S. Ogburn & Company, a co-partnership, in lieu of the retention and destruction thereof, the said bond to be filed herein, if at all, on or before the first day of October, 1908, and that the libelant receive from the said J. S. Ogburn & Company, a co-partnership, its costs herein, taxed at $——, for which execution shall issue if the costs are not paid as hereinbefore provided.

JOHN H. COTTERAL, *Judge.*

The facts in the case are as follows:

On or about July 24, 1908, an inspector of the Department of Agriculture found in the possession of the Ridenour-Baker Mercantile Company of Oklahoma City, Oklahoma, 800 cases, each containing 24 cans of blackberries, labeled "Lindale Brand, 2 lb. Blackberries, Packed by J. S. Ogburn & Company, Lindale, Texas." No statement of weight appeared on any of the cans. A number of the cans was weighed and the gross weight varied from 1 pound 5 ounces to 1 pound 13 ounces.

On July 25, 1908, the facts were reported by the Secretary of Agriculture to the United States attorney for the western district of Oklahoma, and libel for seizure and condemnation was duly filed, with the result hereinbefore stated.

H. W. WILEY,
F. L. DUNLAP,
GEO. P. MCCABE,
Board of Food and Drug Inspection.

Approved:
W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *November 2, 1908.*

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Notice of Judgment Nos. 28–35. Issued December 28, 1908.

United States Department of Agriculture.

OFFICE OF THE SECRETARY,
BOARD OF FOOD AND DRUG INSPECTION.

NOTICE OF JUDGMENT NOS. 28-35, FOOD AND DRUGS ACT.

(N. J. 28.)

ADULTERATION AND MISBRANDING OF PEPPER.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 8th day of July, 1908, in the district court of the United States for the district of Maryland, in a criminal prosecution by the United States against the Interstate Chemical Company, a corporation doing business at Baltimore, Md., for violation of section 2 of the aforesaid act in shipping and delivering for shipment from the State of Maryland to the State of North Carolina an adulterated and misbranded food product, that is to say, a product labeled and branded "Kitchen Queen Black Pepper," the said Interstate Chemical Company entered a plea of guilty, whereupon the court imposed upon it a fine of $25.

The facts in the case were as follows:

On November 15, 1907, an inspector of the Department of Agriculture purchased from Clyde Cahoon & Co., Plymouth, N. C., samples of a product labeled as follows: "Kitchen Queen Black Pepper, Guaranteed under the Pure Food and Drugs Act, June 30, 1906, by Interstate Chemical Co., Baltimore, Md. Serial No. 453." The samples were subjected to analysis in the Bureau of Chemistry and the following results obtained and stated:

Net weight (grams)	75
	Per cent.
Ash, total	6.37
Ash, insoluble in hydrochloric acid	1.38
Ether extract, fixed	6.61
Ether extract, volatile	.99
Crude fiber	14.22
Starch (by miscroscopic examination the pepper showed large quantities of leguminous starch), acid conversion gave	40.57

In "Standards of Purity for Food Products," established under authority of the act of March 3, 1903, and published as Circular 19, Office of the Secretary, U. S. Department of Agriculture, black pepper is defined as follows:

Black pepper is the dried immature berry of *Piper nigrum* L. and contains not less than six (6) per cent of nonvolatile ether extract, not less than twenty-five (25) per cent of starch, not more than seven (7) per cent of total ash, not more than two (2) per cent of ash insoluble in hydrochloric acid, and not more than fifteen (15) per cent of crude fiber. One hundred parts of the nonvolatile ether extract contain not less than three and one-quarter (3.25) parts of nitrogen.

It was evident that the product was both adulterated and misbranded, adulterated because it purported to be a black pepper, when, in fact, some other substance, a substance of a leguminous nature, had been mixed and packed with the product so as to reduce or lower or injuriously affect its quality or strength, and because a substance of leguminous nature had been substituted in part for the article. It was misbranded for the reason that it was labeled "Black Pepper," whereas it consisted of a mixture of black pepper with another substance.

The Secretary of Agriculture, on April 4, 1908, afforded the Interstate Chemical Company a hearing. At this hearing it failed to show any fault or error in the aforesaid analysis, but submitted evidence establishing that it purchased the pepper by the barrel from the manufacturers in New York City and claimed that in transferring the product from the original package in which it was received to another container the character and quality of the article were not in any way changed. The facts were, however, duly reported to the Attorney-General and the case referred to the United States attorney for the district of Maryland, who filed an information against the said company, with the result hereinbefore stated.

H. W. Wiley,
F. L. Dunlap,
Geo. P. McCabe,
Board of Food and Drug Inspection.

Approved:
James Wilson,
Secretary of Agriculture.
Washington, D. C., *November 30, 1908.*

(N. J. 29.)

MISBRANDING OF A DRUG PRODUCT (LIQUID SULPHUR).

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 11th day of July, 1908, in the district court of the United States for the district of Maryland, in a criminal prosecution by the United States against R. N. Menefee, manager of a certain business conducted under the name of the Hancock Liquid Sulphur Company, of Baltimore, Md., for violation of section 2 of the aforesaid act in shipping and delivering for shipment from the State of Maryland to the District of Columbia a misbranded drug product, that is to say, a preparation labeled and branded "Hancock's Liquid Sulphur," the said R. N. Menefee entered a plea of guilty, whereupon the court imposed upon him a fine of $100.

The facts in the case were as follows:

On November 22, 1907, an inspector of the Department of Agriculture purchased from the Washington Wholesale Drug Exchange, Washington, D. C., samples of a product labeled as follows:

Hancock's Liquid Sulphur,
Hancock Liquid Sulphur Company, Baltimore, Md.

On the label of the carton containing the preparation there was printed among other things:

Nature's Greatest Germicide

Permanently cures the most stubborn cases of Blood and Skin disorder. An absolute disinfectant. Purifies the Blood by absorption, and removes all unhealthy secretions from the body. Renders the skin soft and white. Quickly relieves the irritation caused by semi-poisonous insects.

A Perfect Sulphur Spring
in the Retirement of Your Home.

The great cure for Eczema, Acne, Itch, Herpes, Ringworm, Pimples, Prickly Heat, Diphtheria, Catarrh, Canker, Sore Mouth and Throat, Granulated Eyelids, Ulcerated Conditions, Cuts, Burns and Scalds. All diseases of the Scalp.

One of the samples was subjected to analysis in the Bureau of Chemistry of the Department of Agriculture and the result obtained showed that it consisted of an aqueous solution of commercial calcium sulphid.

The statements appearing on the label of the product, representing that it was a preparation containing some unknown peculiar liquid sulphur; was "Nature's Greatest Germicide;" "A Perfect Sulphur Spring in the Retirement of Your Home;" "The Great Cure for * * * Diphtheria * * * ," etc., were false, misleading, and

deceptive in the following particulars: The product was not a natural germicide because it was an artificial product, and furthermore could not even be classed among the "Greatest Germicides." It was not an "Absolute Disinfectant." It was not a "Perfect Sulphur Spring in the Retirement of Your Home," and it was not "The Great Cure for * * * Diphtheria * * *."

The Secretary of Agriculture having duly afforded the manufacturer and the dealer an opportunity to show any fault or error in the findings of the analyst, and they having failed to do so, the facts were reported to the Attorney-General and the case referred to the United States attorney for the district of Maryland, who filed an information against the said defendant, with the result hereinbefore stated.

H. W. Wiley,
F. L. Dunlap,
Geo. P. McCabe,
Board of Food and Drug Inspection.

Approved:
James Wilson,
Secretary of Agriculture.
Washington, D. C., *November 28, 1908.*

(N. J. 30.)

MISBRANDING OF A DRUG PRODUCT (CONCENTRATED OIL OF PINE COMPOUND).

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 10th day of September, 1908, in the district court of the United States for the western division of the southern district of Ohio, in a criminal prosecution by the United States against William E. Pilkinton and A. P. Foose, doing business under the firm name of Globe Pharmaceutical Company, at Dayton, Ohio, for violation of section 2 of the aforesaid act in shipping and delivering for shipment from the State of Ohio to the District of Columbia a misbranded drug product; that is to say, a preparation labeled and branded "Concentrated Oil of Pine Compound," the following judgment was entered:

The United States of America
vs.
William E. Pilkinton and Alphonse P. Foose, under the firm name of Globe Pharmaceutical Company.

This day came the district attorney on behalf of the United States, and the defendants being present in court in the custody of the marshal and having

been arraigned at the bar of this court and said information read to them, for plea say they are guilty in manner and form as charged and throw themselves upon the mercy of the court.

And the district attorney moving for sentence, the court pronounced the following sentence, to wit: That each of said defendants pay a fine of five ($5.00) dollars and the costs of this prosecution to be taxed. And said fine and costs are paid.

The facts in the case were as follows:

On November 22, 1907, an inspector of the Department of Agriculture purchased from the WashingtonWholesale Drug Exchange, Washington, D. C., samples of a product labeled as follows: "Concentrated Oil of Pine Compound. The Globe Pharmaceutical Co., Dayton, Ohio."

One of the samples was subjected to analysis in the Bureau of Chemistry of the Department of Agriculture, and the result obtained showed that it consisted of a mixture of fixed oil, a resinous substance, and a small amount of volatile oil obtained by steam distillation resembling turpentine.

It was evident that the product was misbranded for the reason that the composition did not in any way warrant the use of the name "Concentrated Oil of Pine Compound," and the statement that it was such was false, misleading, and deceptive.

The Secretary of Agriculture having duly afforded the manufacturers an opportunity to show any fault or error in the findings of the analyst and they having failed to do so, the facts were reported to the Attorney-General and the case referred to the United States attorney for the southern district of Ohio, who filed an information against the said defendants with the result hereinbefore stated.

H. W. Wiley,
F. L. Dunlap,
Geo. P. McCabe,
Board of Food and Drug Inspection.

Approved:
James Wilson,
Secretary of Agriculture.
Washington, D. C., *November 28, 1908.*

(N. J. 31.)

ADULTERATION AND MISBRANDING OF BUCKWHEAT FLOUR.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 19th day of September, 1908, in the district court of the United

States for the district of Maryland, in a criminal prosecution by the United States against Charles Read, trading as C. Read & Company, for violation of section 2 of the aforesaid act in shipping and delivering for shipment from Maryland to Delaware an adulterated and misbranded food product, that is to say, a product labeled and branded "Rolan Self Yeasted Mountain Buckwheat," the said Charles Read entered a plea of guilty, whereupon the court imposed upon him a fine of $25.

The facts in the case were as follows:

On December 18, 1907, an inspector of the Department of Agriculture purchased from Henry M. Lodge, Wilmington, Del., samples of a product labeled as follows: "Rolan Self Yeasted Mountain Buckwheat. One Pound. C. Read & Company, Baltimore, Md." A sample was subjected to analysis in the Bureau of Chemistry and the results showed that the product consisted of a mixture of buckwheat and maize.

In "Standards of Purity for Food Products," established under authority of the act of March 3, 1903, and published as Circular 19, Office of the Secretary, U. S. Department of Agriculture, buckwheat flour is defined as follows:

> Buckwheat flour is bolted buckwheat meal and contains not more than twelve (12) per cent of moisture, not less than one and twenty-eight hundredths (1.28) per cent of nitrogen, and not more than one and seventy-five hundredths (1.75) per cent of ash.

It was evident that the product was both adulterated and misbranded; adulterated because it purported to be a buckwheat flour when, in fact, another substance, maize, had been mixed with it and substituted in part for the article. It was misbranded for the reason that it was labeled "Buckwheat," whereas it consisted of a mixture of buckwheat and maize.

The Secretary of Agriculture having, on April 9, 1908, afforded the manufacturer and dealer an opportunity to show any fault or error in the aforesaid analysis, and they having failed to do so, the facts were duly reported to the Attorney-General and the case referred to the United States attorney for the district of Maryland, who filed an information against the said Charles Read with the result hereinbefore stated.

H. W. Wiley,
F. L. Dunlap,
Geo. P. McCabe,
Board of Food and Drug Inspection.

Approved:
James Wilson,
Secretary of Agriculture.
Washington, D. C., *November 28, 1908.*

(N. J. 32.)

MISBRANDING OF A DRUG PRODUCT (BLACKBURN'S CASCARA, WILD LEMON, CASTOR OIL PILLS, COMPOUND).

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for its enforcement, notice is given that on the 28th day of September, 1908, in the district court of the United States for the western division of the southern district of Ohio, in a prosecution by the United States against Robert Blackburn, doing business under the name of the Victory Remedy Company, for violation of section 2 of the aforesaid act in shipping and delivering for shipment from Ohio to Michigan a misbranded drug product, that is to say, a preparation labeled and branded "Blackburn's Cascara, Wild Lemon, Castor Oil Pills, Compound," the following judgment was entered:

THE UNITED STATES
vs.
ROBERT BLACKBURN, DOING BUSINESS AS VICTORY REMEDY COMPANY.

This day came the district attorney on behalf of the United States, and the defendant being present in court in the custody of the marshal and having been arraigned at the bar of this court, and said information read to him, for plea said he is guilty in manner and form as charged therein and throws himself upon the mercy of the court. And the district attorney moving for sentence, the court pronounced the following sentence, to wit: That said defendant pay a fine of ten ($10.00) dollars and the costs of this prosecution, to be taxed and to stand committed until paid; and said fine and costs are paid.

The facts in the case were as follows:

On January 7, 1908, an inspector of the Department of Agriculture purchased from the Michigan Drug Company (Williams, Davis, Brooks & Hirschman Sons), Detroit, Mich., samples of a product labeled "Blackburn's Cascara, Wild Lemon, Castor Oil Pills, Compound. Prepared only for the Victory Remedy Company, Dayton, O.," which were received by it directly from the manufacturer, the Victory Remedy Company, Dayton, Ohio. One of the samples was subjected to analysis in the Bureau of Chemistry, Department of Agriculture. The results of the analysis showed the preparation to contain calcium sulphid, capsicum, atropin (introduced, probably, in the form of belladona extract), and at most, if any, a trace of castor oil; and that the ingredients and quantity of castor oil did not in any way justify the use of the name "castor oil," and that castor oil is not the most active ingredient of the preparation and that the cathartic, curative, or therapeutic effects of castor oil are almost wholly absent from the compound.

The Secretary of Agriculture having afforded the manufacturers an opportunity on April 7, 1908, to show any fault or error in the findings of the analyst, and they having failed to do so, the facts were reported to the Attorney-General and the case referred to the United States attorney for the southern district of Ohio, who filed an information against the said defendant with the result hereinbefore stated.

H. W. Wiley,
F. L Dunlap,
Geo. P. McCabe,
Board of Food and Drug Inspection.

Approved:
James Wilson,
Secretary of Agriculture.
Washington, D. C., *November 30, 1908.*

(N. J. 33.)

MISBRANDING OF MAPLE SIRUP.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 19th day of October, 1908, in the district court of the United States for the district of Colorado, in a proceeding of libel for condemnation of 296 cases and 93 5-gallon cans of a misbranded food product—that is to say, a product labeled and branded " Canada Sap Maple and Pure Sugar Cane Syrup," and which contained sugar-cane sirup in excess of maple sirup, wherein the United States was libelant and the Scudder Syrup Company was claimant, the case having come on for a hearing, and the said claimant having failed to answer, a decree of forfeiture and condemnation was rendered in substance and form as follows:

In the district court of the United States within and for the district of Colorado.

The United States of America, Libelant, *vs.* Four Hundred Cases and One Hundred Five-Gallon Cans of Maple Syrup.	No. 2187.

In this cause, it appearing to the court that the said United States of America, by Thomas Ward, jr., United States attorney, and the Scudder Syrup Company, the claimants and the owners of the property seized herein, by L. W. Bassett, esq., their attorney, consenting thereto, and under the process issued in this cause one hundred and one cases of one-gallon cans, ninety-four cases

of one-half gallon cans, one hundred and one cases of one-fourth gallon cans, and ninety-three five-gallon cans of maple syrup were seized by the United States marshal at the city of Colorado Springs, El Paso County, State of Colorado, and that the same were subject to seizure and confiscation by the United States for the causes set forth in the libel herein—that is to say, for the reason that said cases and cans contained a mixture of syrup wherein cane syrup was greatly in excess of one-half, and maple syrup was much less than one-half, and that the said brands on said cases and cans were misleading and calculated to deceive purchasers.

And it further appearing by like consent that the said Scudder Syrup Company have agreed that an order may be entered at once condemning and confiscating said property to the United States;

It is therefore ordered, adjudged, and decreed that the said property above described, now in possession of the marshal of the court, be, and the same hereby are, declared to be forfeited and confiscated to the United States.

It is further ordered, however, that upon payment by the said Scudder Syrup Company of the costs of this proceeding and the execution and delivery of a good and sufficient bond to be filed with the clerk in this cause, conditioned that said property shall not be sold or otherwise disposed of contrary to the provision of the act (ch. 3915, 59th Congress) commonly known as the Pure Food and Drugs Act (act of June 30, 1906), or contrary to the laws of the State of Colorado, then the marshal of this court is hereby directed to deliver said property to the Scudder Syrup Company or its representatives.

[Signed] THOMAS WARD, Jr.,
United States Attorney.

[Signed] LLOYD W. BASSETT,
Attorney for Scudder Syrup Co.

The facts in the case were as follows:

On or about September 12, 1908, an inspector of the Department of Agriculture located in the possession of the Shields, Morley Grocery Company, and O. E. Hemenway, at Colorado Springs, Colo., 400 cases and 100 5-gallon cans, more or less, of syrup, which goods were shipped to them by the Scudder Syrup Company, of Chicago, Ill. The said cases and 5-gallon cans were marked and branded "Scudder's Full Measure Absolutely Pure Canada Sap Maple and Pure Sugar Cane Syrup." The following results of an analysis made in the Bureau of Chemistry of the Department of Agriculture of a sample of the syrup taken from the consignment seized showed that the amount of sugar-cane syrup contained in the product was greatly in excess of the amount of maple syrup.

Total solids (per cent)	64.5
Total ash (per cent)	0.16
Polarization, direct at 23° C. (°V.)	60.5
Polarization, invert at 23° C. (°V.)	−20.0
Sucrose by Clerget (per cent)	61.3
Lead number (Sy's)	0.6 0.7
Maple flavor	Slight.

The facts were reported by the Secretary of Agriculture to the United States attorney for the district of Colorado, and libel for

seizure and condemnation under section 10 of the act was duly filed in the court aforesaid. The case having come on for trial, the court adjudged the product misbranded, and upon the filing by the Scudder Syrup Company of a good and sufficient bond under the provisions of the decree hereinbefore set forth, the goods were released to it.

H. W. Wiley,
F. L. Dunlap,
Geo. P. McCabe,
Board of Food and Drug Inspection.

Approved:
James Wilson,
Secretary of Agriculture.
Washington, D. C., *November 28, 1908.*

(N. J. 34.)

MISBRANDING OF CANNED PEACHES.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 19th day of October, 1908, in the district court of the United States for the western district of Oklahoma, in a proceeding of libel for condemnation of misbranded peaches—that is to say, 478 boxes containing 24 cans each of canned peaches misbranded as to weight of content, wherein the United States was libelant and the Ridenour-Baker Mercantile Company, a corporation, was claimant, the said claimant having filed its answer, and the cause having come on for a hearing, a decree of forfeiture and condemnation was rendered in substance and form as follows:

In the district court of the United States for the western district of Oklahoma.

The United States, Libelant, *vs.* Four Hundred and Seventy-eight Cases of Peaches.	No. 45.

Decree of condemnation.

Now, to wit, on the 19th day of October, 1908, at a term of said court at Enid, in said district, said cause came on for trial, and it appearing to the court that upon the libel filed herein monition and warrant of arrest was issued and duly served on the second day of October, 1908, and that by virtue of said warrant the marshal has seized and now holds four hundred and seventy-eight cases of peaches of the approximate value of eight hundred and seventy-five dollars, containing two dozen cans to the case, the said four hundred and seventy-eight

cases of peaches, with the contents, having been seized within the premises and in the possession of the Ridenour-Baker Mercantile Company, a corporation of Oklahoma City, within said district, and now being stored in the custody of the said marshal, and it appearing that the said Ridenour-Baker Mercantile Company, a corporation, the owners of said four hundred and seventy-eight cases of peaches, was duly warned to appear on the 5th day of October, 1908, and that due and legal notice and proclamation was given to all persons having or claiming to have any claim, right, or interest herein, or in or to said property, to appear on said date and answer the said libel, and the said Ridenour-Baker Mercantile Company having so appeared by Parker and Simons, the attorneys of said company, and filed its answer to the said libel, and the libelant appearing by J. W. Scothorn, assistant United States attorney for the western district of Oklahoma, and the said Ridenour-Baker Mercantile Company appearing by the said Parker and Simons, its attorneys, a jury is waived and the said cause is tried to the court; the libelant and respondent each making a statement to the court of their evidence and agreeing in open court as to what the facts are in this case, and upon said agreement in open court submitted the same to the court, and the court now being fully advised in the premises finds for the libelant, and finds that the contents of the four hundred and seventy-eight cases containing peaches of two dozen cans each are articles of food, and that said cases are misbranded within the meaning of the act of Congress of June 30, 1906, entitled, "An act for preventing the manufacture, sale, or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes," and that the same have been transported as peaches in interstate commerce from the city of Los Angeles, in the State of California, to the city of Oklahoma City, in the State of Oklahoma, and consigned to the Ridenour-Baker Mercantile Company, a corporation, in the western district of Oklahoma, and remain in said district in the original unbroken cases, being a consignment of peaches misbranded as to the weight of the contents of said cases, and transported in interstate commerce from the city of Los Angeles, in the State of California, to the said Ridenour-Baker Mercantile Company, of Oklahoma City, Oklahoma, being all of such consignment found in original unbroken packages—that is, the court finds that said articles of food are misbranded and are in violation of said act of Congress in that said cases, and each of them, contain less weight than the amount as shown by the brand thereon; and that the said articles of food were so transported in interstate commerce and consigned and delivered to the Ridenour-Baker Mercantile Company as aforesaid, wholesale dealers.

The court further finds that the article of food contained in said four hundred and seventy-eight cases is not adulterated, poisonous, or deleterious, but that the violation of said act of Congress is in the misbranding of such cases as to the quantity contained in each case, and that the same were consigned only to a wholesale dealer and not sold to the public for consumption.

Wherefore, it is ordered, adjudged, and decreed by the court that the said four hundred and seventy-eight cases of peaches, with the contents aforesaid, be, and they are hereby, declared to be misbranded in violation of the act of Congress of June 30, 1906, as charged in said libel; and it is further ordered that the said four hundred and seventy-eight cases of peaches be, and they are hereby, condemned and forfeited as provided for in the said act of June 30, 1906. It is provided, however, that upon the payment of all the costs in the proceeding herein, including all court, clerk's, and marshal's costs, and all cost of hauling, storage, watchman, and all other costs incident to or contracted in this proceeding, and the execution and delivery by the said Ridenour-

Baker Mercantile Company, a corporation, to the libelant of good and sufficient bond in the penalty of five hundred dollars, conditioned that the said four hundred and seventy-eight cases of peaches, with the contents aforesaid, shall not be sold or otherwise disposed of contrary to the provisions of the said act of June 30, 1906, or the laws of any State, Territory, district, or insular possessions, that said marshal shall redeliver the said four hundred and seventy-eight cases of peaches, with such of their contents as they now contain or may contain at the time of such redelivery, to the said Ridenour-Baker Mercantile Company, a corporation, in lieu of the retention and destruction thereof, the said bond to be filed herein, if at all, before the 1st day of November, 1908, and that the said libelant receive from said Ridenour-Baker Mercantile Company, a corporation, its costs herein taxed at ——— dollars, for which execution shall issue if the costs are not paid as hereinbefore provided.

JOHN H. COTTERAL, *Judge.*

The facts in this case are as follows:

On or about September 29, 1908, an inspector of the Department of Agriculture located in the possession of the Ridenour-Baker Mercantile Company of Oklahoma City, Oklahoma, 478 cases of canned peaches which were consigned to it by the J. K. Armsby Company, of Los Angeles, Cal., arriving at the point of destination September 5, 1908. The shipping cases, each of which contained two dozen cans, were marked and branded "Lake View Brand, Serial No. 10872, 2 Doz. 2½ lb. Cans Choice California Yellow Free Peaches, packed by G. H. Waters, Pomona, California." An examination of 24 cans, made by the inspector, showed the actual weight of the cans to be from 34 to 35 ounces gross.

It was evident, therefore, that the goods were misbranded in violation of section 8 of the act, and on September 30, 1908, the facts were reported by the Secretary of Agriculture to the Attorney-General, who referred them to the United States attorney for the western district of Oklahoma. Libel for seizure and condemnation under section 10 of the act was duly filed in the district court of the United States for the said district. The case duly came on for trial and the court adjudged the product to be misbranded, and upon the filing by the respondent of a good and sufficient bond, under the provisions of the decree hereinbefore set forth, the goods were released.

H. W. WILEY,
F. L. DUNLAP,
GEO. P. MCCABE,
Board of Food and Drug Inspection.

Approved:
JAMES WILSON,
Secretary of Agriculture.
WASHINGTON, D. C., *November 30, 1908.*

(N. J. 35.)

MISBRANDING OF CANNED PEACHES.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 19th day of October, 1908, in the district court of the United States for the western district of Oklahoma, in a criminal prosecution by the United States against C. P. Whiteman, agent of the J. K. Armsby Company, for violation of section 2 of the aforesaid act in shipping from California to Oklahoma, and then delivering in original packages to the Ridenour-Baker Mercantile Company, 24 cans of peaches contained in a box misbranded as to weight of content, the said C. P. Whiteman entered a plea of guilty, and the court imposed upon him a fine of $100.

The facts in this case were as follows:

On October 3, 1908, an inspector of the Department of Agriculture collected a sample of canned peaches in a box bearing the following label: "Lake View Brand, Serial No. 10872, 2 Doz. 2½ lb. Cans Choice California Yellow Free Peaches, packed by G. H. Waters, Pomona, California." This sample contained 24 cans and was one of a consignment of 478 cases of canned peaches shipped to the Ridenour-Baker Mercantile Company, Oklahoma City, Okla., by J. K. Armsby Company, Los Angeles, Cal., and delivered by C. P. Whiteman, their agent, which consignment was seized under process of libel for condemnation. An examination of the 24 cans contained in the sample collected was made by the inspector, with the result that the actual weight of the cans was found to be from 34 to 35 ounces gross. The United States attorney for the western district of Oklahoma filed an information against C. P. Whiteman, agent for J. K. Armsby Company, for the aforesaid offense, with the result hereinbefore stated.

H. W. Wiley,
F. L. Dunlap,
Geo. P. McCabe,
Board of Food and Drug Inspection.

Approved:
James Wilson,
Secretary of Agriculture.

Washington, D. C., *November 30, 1908.*

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